FEDERAL REGISTER

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Regulations

TITLE 7—AGRICULTURE

Chapter IX—War Food Administration
(Marketing Agreements and Orders)

PART 927—MILK IN THE NEW YORK METROPOLITAN MARKETING AREA

DETERMINATION OF EQUIVALENT PRICE FOR ANIMAL FEED DRY SKIM MILK

Pursuant to § 927.10 of the order, as amended, regulating the handling of milk in the New York metropolitan marketing area, it is hereby determined that the price equivalent of hot roller process dry skim milk for "other brands, animal feed, carlots, bags, or barrels," as used in § 927.4 (a) (15) of the said order, is 9.78 cents per pound, and the market administrator under such order shall use such price in November 1943 in the computation of the price of Class V-B milk (as defined in such order), pursuant to § 927.4 (a) (15) of the order, for milk delivered in October 1943.

(E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423)

Issued at Washington, D. C., this 25th day of October 1943.

MARVIN JONES,
War Food Administrator.

[F. R. Doc. 43-17323; Filed, October 26, 1943; 11:16 a. m.]

PART 927—MILK IN THE NEW YORK METROPOLITAN MARKETING AREA

DETERMINATION OF EQUIVALENT PRICE FOR ANIMAL FEED DRY SKIM MILK

Pursuant to § 927.10 of the order, as amended, regulating the handling of milk in the New York metropolitan marketing area, it is hereby determined that the price equivalent of hot roller process dry skim milk for "other brands, animal feed, carlots, bags, or barrels," as used in § 927.2 (e) (1) of the said order, is 9.60 cents per pound, and the market administrator under such order shall use such price in the computation and announcement of prices, pursuant to § 927.2 (e) (1) of the order for Class I milk delivered in November 1943.

(E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423)

Issued at Washington, D. C., this 25th day of October 1943.

MARVIN JONES,
War Food Administrator.

[F. R. Doc. 43-17321; Filed, October 26, 1943; 11:16 a. m.]

PART 961—MILK IN THE PHILADELPHIA, PA., MARKETING AREA

DETERMINATION OF EQUIVALENT PRICE FOR ANIMAL FEED DRY SKIM MILK

Pursuant to § 961.10 of the order, as amended, regulating the handling of milk in the Philadelphia, Pennsylvania, marketing area, it is hereby determined that the price equivalent of hot roller process dry skim milk for "other brands, animal feed," as used in § 961.4 (a) (2) (ii) is 9.78 cents per pound, and the market administrator under such order shall use such price in calculating the Class II price for the month of October 1943, pursuant to § 961.4 (a) (2) of the order.

(E.O. 9322, 8 F.R. 3907; E.O. 9334, 8 F.R. 5423)

Issued at Washington, D. C., this 25th day of October 1943.

MARVIN JONES,
War Food Administrator.

[F. R. Doc. 43-17322; Filed, October 26, 1943; 11:16 a. m.]

Chapter X—War Food Administration
(Production Orders)

[FDO 6, Termination]

PART 1215—SEEDS AND GRASSES

RESTRICTIONS ON TRANSFER OF BERMUDA AND CARPET GRASS SEEDS

The provisions of Food Production Order No. 6, as amended (8 F.R. 903, 2527), shall no longer apply to "Carpet grass seed" and "Bermuda grass seed" and such order is hereby terminated accordingly: *Provided*, That all provisions of said Food Production Order No. 6, as

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FEDERAL REGISTER

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amended, shall continue to remain in full force and effect for the purpose of allowing or sustaining any suit, action, prosecution, or administrative or other proceedings heretofore or hereafter commenced with respect to any violation committed or right or liability accruing under or pursuant to the terms of such provisions.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423)

Issued this 25th day of October 1943.

ASHLEY SELLERS,
Assistant War Food Administrator.

[F. R. Doc. 43-17325; Filed, October 26, 1943; 11:16 a. m.]

Chapter XI—War Food Administration (Distribution Orders)

[FDO 71, as Amended, Termination]

PART 1414—POULTRY

TURKEYS

Pursuant to the authority vested in me by Executive Order No. 9280, dated December 5, 1942, and Executive Order No. 9322, dated March 26, 1943, as amended by Executive Order No. 9334, dated April 19, 1943, it is hereby ordered, as follows:

That Food Distribution Order No. 71, issued by the War Food Administrator on July 31, 1943, as amended (8 F.R. 10703, 11465), restricting the sale, delivery, purchase, and acceptance of delivery of turkeys, be, and the same is hereby, terminated at 12:01 a. m., e. w. t., October 25, 1943.

With respect to violations of said Food Distribution Order No. 71, as amended, rights accrued, liabilities incurred, or appeals taken under said order, as amended, prior to the effective time of the termination thereof, said Food Distribution Order No. 71, as amended, shall be deemed to be in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, or liability.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423)

Issued this 23d day of October, 1943.

GROVER B. HILL,
First Assistant War Food Administrator.

[F. R. Doc. 43-17275; Filed, October 25, 1943; 4:34 p. m.]

[FDO 75, Amdt. 1]

PART 1410—LIVESTOCK AND MEATS

SLAUGHTER OF LIVESTOCK AND DELIVERY OF MEAT

Food Distribution Order No. 75 (8 F.R. 11119), § 1410.15, *Restriction on the slaughter of livestock and delivery of meat*, issued under authority of the War Food Administrator on August 9, 1943, is amended by deleting (b) and substituting in lieu thereof the following:

(b) *Restrictions upon slaughter and delivery.* No person, shall, either for himself or for any other person, slaughter any livestock for meat production, and no slaughterer shall deliver meat, unless he holds a valid and effective license or permit under the provisions of this order, except that, for the purpose of home consumption or for consumption by his farm employees who eat at his table or on his farm, any person may without a license or permit, slaughter livestock or have livestock slaughtered for him in any case where, under regulations of the Office of Price Administration governing "Home Producers" (§ 3.1, § 3.4, Ration Order No. 16), as now in effect or hereafter amended, such person is not required to surrender ration points for the meat derived from such slaughter. Any farmer may, in any cal-

endar year, deliver not over 400 pounds of such meat, provided that he first obtains a permit authorizing such delivery,

This order shall become effective at 12:01 a. m., e. w. t., October 30, 1943.

With respect to violations, rights accrued, liabilities incurred, or appeals taken under Food Distribution Order No. 75 prior to the effective date of this amendment, all provisions of Food Distribution Order No. 75 in effect prior to this amendment shall be deemed to remain in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, or liability.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423)

Issued this 25th day of October 1943.

GROVER B. HILL,
First Assistant
War Food Administrator.

[F. R. Doc. 43-17319, Filed, October 26, 1943; 11:15 a. m.]

[Revocation of FDO 46]

PART 1460—FATS AND OILS

COCONUT, BABASSU, AND PALM KERNEL OILS

Pursuant to the authority vested in the War Food Administrator, it is hereby ordered as follows:

That Food Distribution Order No. 46 (8 F.R. 4229), issued by the Secretary of Agriculture on the first day of April, 1943, be, and the same is hereby, revoked and terminated.

This order shall become effective at 12:01 a. m., e. w. t., October 27, 1943. However, with respect to violations of Food Distribution Order No. 46, or rights accrued, or liabilities incurred, prior to said date, said Food Distribution Order No. 46 shall be deemed to be in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, or liability.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423)

Issued this 25th day of October 1943.

ASHLEY SELLERS,
Assistant War Food Administrator.

[F. R. Doc. 43-17314; Filed, October 26, 1943; 11:15 a. m.]

[FDO 56, Amdt. 1]

PART 1460—FATS AND OILS

RAW LINSEED OIL SET ASIDE

Food Distribution Order 56 (8 F.R. 8625), issued by the Acting War Food Administrator on June 22, 1943, is amended to read as follows:

§ 1460.14 *Raw linseed oil required to be set aside*—(a) *Definitions.* (1) "Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons whether incorporated or not.

(2) "Governmental agency" means the Food Distribution Administration, War Food Administration, or any other governmental agency designated by the Director.

(3) "Offer to sell" means to offer raw linseed oil for sale to a governmental agency on the following terms and conditions:

(i) The offer shall be made by telegram or letter addressed to the Chief, Fats and Oils Branch, Food Distribution Administration, War Food Administration, Washington 25, D. C.;

(ii) The purchase price shall not exceed ceiling prices established by the Office of Price Administration;

(iii) Delivery shall be made within fifteen days after the last day of the month in which the oil is produced;

(iv) The offer shall remain open for acceptance for seven days after the receipt thereof;

(v) The governmental agency shall be privileged to accept the offer with respect to all or any part of the oil covered by the offer and may further limit its acceptance to a specified maximum quantity of oil;

(vi) A separate offer shall be made with respect to the raw linseed oil to be produced, in each month, in each oil mill operated by the offeror, however, more than one offer may be submitted in a single document; and

(vii) Every offer shall contain an estimate of the offeror's total production of raw linseed oil for the month covered by the offer from each oil mill operated by the offeror.

(4) "Crusher" means any person engaged in producing raw linseed oil and includes any person who has raw linseed oil produced for him pursuant to a toll agreement. The original owner of raw linseed oil produced pursuant to a toll agreement shall be construed as being the producer of such oil and, with respect to such production, the operator of the oil mill in which it is produced.

(5) "Month" means a calendar month. month.

(6) "Month of production" means, with respect to any raw linseed oil, the calendar month in which such oil was produced.

(7) "Director" means the Director of Food Distribution, War Food Administration.

(b) *Set aside restrictions.* Subject to the provisions of paragraph (c) hereof, every crusher shall set aside and hold for sale and delivery to a governmental agency 25% of all the raw linseed oil produced by him in each oil mill operated by him in each month thereafter, beginning with April 1944.

(c) *Exceptions.* Notwithstanding the provisions of paragraph (b) hereof, any crusher who, in the period beginning on the twenty-third day of the third month preceding the month of production and ending on the twenty-third day of the first month preceding the month of production, has made an offer to sell the raw linseed oil required to be set aside by the provisions of paragraph (b) hereof, for such month of production, may use or dispose of any of such raw linseed oil which a governmental agency has not contracted to purchase within seven days after the receipt of such offer to sell by the Chief of the Fats and Oils Branch, Food Distribution Administration, War Food Administration.

(d) *Contracts.* The restrictions of this order shall be observed without regard to contracts heretofore or hereafter entered into, or any rights accrued, or payments made thereunder.

(e) *Audits and inspections.* The Director shall be entitled to make such audit or inspection of the books, records and other writings, premises or stocks of raw linseed oil of any person, and to make such investigations, as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this order.

(f) *Records and reports.* (1) The Director shall be entitled to obtain such information from, and require such reports and keeping of such records by, any person, as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this order.

(2) Every person subject to this order shall, for at least two years (or for such period of time as the Director may designate), maintain an accurate record of his transactions in raw linseed oil.

(3) The record-keeping and reporting requirements of this order have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942. Subsequent record-keeping or reporting requirements will be subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

(g) *Petition for relief from hardship.* Any person affected by this order who considers that compliance herewith would work an exceptional and unreasonable hardship on him, may file a petition for relief in writing with the Director, addressed as follows: Director of Food Distribution, War Food Administration, Washington 25, D. C. Ref. FDO 56. Such petition shall set forth all pertinent facts and the nature of the relief sought. The Administrator of this order shall then act upon the petition. In the event that the petitioner is dissatisfied with the action taken by the Administrator of this order, he may request a review of such action by the Director whose decision with respect to the relief sought shall be final.

(h) *Violations.* The War Food Administrator may, by suspension order, prohibit any person who violates any provision of this order from receiving, making any deliveries of, or using raw linseed oil, or any other material subject to priority or allocation control by the War Food Administrator, and may recommend that any such persons be prohibited from receiving, making any deliveries of, or using materials subject to the priority or allocation control of other governmental agencies. In addition, any person who wilfully violates any provision of this order is guilty of a crime and may be prosecuted under any and all applicable laws. Further, civil action may be instituted to enforce any liability

or duty created by, or to enjoin any violation of, any provision of this order.

(i) *Communications.* All reports required to be filed hereunder and all communications concerning this order shall, unless instructions to the contrary are issued by the Director, or otherwise provided herein, be addressed to the Director of Food Distribution, War Food Administration, Washington 25, D. C., Ref. FDO 56.

(j) *Delegation of authority.* The administration of this order and the powers vested in the War Food Administrator, insofar as such powers relate to the administration of this order, are hereby delegated to the Director. The Director is authorized to redelegate any or all of the authority vested in him by this order to any employee of the United States Department of Agriculture.

(k) *Territorial extent.* This order shall apply only to the forty-eight States of the United States and the District of Columbia.

(l) *Effective date.* This amendment shall become effective at 12:01 a. m. e. w. t., October 26, 1943. However, with respect to violations of Food Distribution Order 56, or rights accrued, or liabilities incurred, prior to said date, said Food Distribution Order 56 shall be deemed in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, or liability.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423)

Issued this 25th day of October 1943.

GROVER B. HILL,
First Assistant
War Food Administrator.

[F. R. Doc. 43-17317; Filed, October 26, 1943; 11:15 a. m.]

[Revocation of FDO 57]

PART 1460—FATS AND OILS

INVENTORIES OF RAW LINSEED OIL

Pursuant to the authority vested in the War Food Administrator, it is hereby ordered as follows:

That Food Distribution Order No. 57 (8 F.R. 8626), issued by the Acting War Food Administrator on the twenty-second day of June, 1943, be, and the same is hereby, revoked and terminated.

This order shall become effective on the 27th day of October 1943, at 12:01 a. m., e. w. t. However, with respect to violations of Food Distribution Order No. 57, or rights accrued, or liabilities incurred, prior to said date, said Food Distribution Order No. 57 shall be deemed to be in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, or liability.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423)

Issued this 25th day of October 1943.

GROVER B. HILL,
First Assistant
War Food Administrator.

[F. R. Doc. 43-17318; Filed, October 26, 1943; 11:15 a. m.]

[FDO 47, Amdt. 1]

PART 1490—MISCELLANEOUS FOOD PRODUCTS

HONEY

Food Distribution Order No. 47 (8 F.R. 4497), issued by the Secretary of Agriculture on April 6, 1943, is amended to read as follows:

§ 1490.2 *Restrictions imposed on the use of honey*—(a) *Definitions.* When used in this order, unless otherwise distinctly expressed or manifestly incompatible with the intent hereof:

(1) The term "person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

(2) The term "Director" means the Director of Food Distribution, War Food Administration.

(3) The term "honey" means (i) honey in any extracted or comb form, or (ii) the percentage of the product that is honey contained in any material composed of two or more ingredients, one of which is honey.

(4) The term "other products" means any manufactured product, including, but not restricted to, any syrup or compound, of which honey is an ingredient.

(5) The term "governmental agency" means (i) the Armed Services of the United States; (ii) the Food Distribution Administration, War Food Administration (including, but not restricted to, the Federal Surplus Commodities Corporation); (iii) the War Shipping Administration; (iv) the Veterans Administration; and (v) any other instrumentality or agency designated by the War Food Administrator. The term "governmental agency" also includes any person who, pursuant to a food distribution regulation, is entitled to purchase food subject to this order.

(6) The term "Armed Services of the United States" means the Army, the Navy, the Marine Corps, or the Coast Guard of the United States.

(b) *General restrictions and quotas.* (1) Except as provided in paragraph (c) hereof or as hereafter authorized by the Director, no person shall use more honey in manufacturing other products during any quota period than his quota therefor; for such period, as specified by the Director. The Director shall, from time to time, establish quotas and quota periods pursuant to the provisions hereof.

(2) No person shall accept deliveries of honey, for use in manufacturing other products, which will increase his inventory of honey to an amount in excess of a practicable minimum working inventory in view of the restrictions herein.

(3) No person shall deliver honey to any other person for use in the manufacture of other products with knowledge or reason to believe that such person is not entitled to accept such delivery pursuant to this order.

(c) *Quota exemptions and special quotas.* (1) Notwithstanding the restrictions of paragraph (b) (1) hereof and without charge to his quota thereunder, any person may use any amount of honey in manufacturing other products delivered to or for a governmental agency: *Provided,* That the use of honey is required by such governmental agency's specifications or that honey is customarily used as an ingredient in such product.

(2) Upon receipt of application, the Director may, subject to such terms and restrictions as he may deem advisable, assign special quotas of honey to any person who wishes to use honey in manufacturing any other product not previously manufactured by such person or by any subsidiary or affiliate of such person: *Provided,* That such honey will not be used primarily in lieu of sugar or other sweets in such other product. Such special quotas assigned pursuant to this provision shall be in addition to the quotas assigned by the Director pursuant to the provisions of paragraph (b) (1) hereof. Applications (form FDO-47-1) for special quotas pursuant to this order may be obtained from the Director.

(d) *Territorial extent.* This order shall apply only to the forty-eight States of the United States and the District of Columbia.

(e) *Records and reports.* (1) The Director shall be entitled to obtain such information from, and require such reports and the keeping of such records by, any person, as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this order.

(2) Every person subject to this order shall, for at least two years (or for such period of time as the Director may designate), maintain an accurate record of his transactions in honey.

(3) The record-keeping requirements of this order have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942. Subsequent record-keeping or reporting requirements will be subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

(f) *Audits and inspections.* The Director shall be entitled to make such audit or inspection of the books, records and other writings, premises or stocks of honey of any person, and to make such investigations, as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this order.

(g) *Violations.* The War Food Administrator may, by suspension order, prohibit any person who violates any

provision of this order from receiving, making any deliveries of, or using honey, or any other material subject to priority or allocation control by the War Food Administrator, and may recommend that any such person be prohibited from receiving, making any deliveries of, or using materials subject to the priority or allocation control of other governmental agencies. In addition, any person who wilfully violates any provision of this order is guilty of a crime and may be prosecuted under any and all applicable laws. Further, civil action may be instituted to enforce any liability or duty created by, or to enjoin any violation of, any provision of this order.

(h) *Petition for relief from hardship.* Any person affected by this order who considers that compliance herewith would work an exceptional and unreasonable hardship on him may apply in writing for relief to the Director, setting forth in such petition all pertinent facts and the nature of the relief sought. The Director may thereupon take such action as he deems appropriate, which action shall be final.

(i) *Communications.* All reports required to be filed hereunder and all communications concerning this order shall, unless instructions to the contrary are issued by the Director, be addressed to the Director of Food Distribution, War Food Administration, Washington 25, D. C., Ref. FD–47.

(j) *Delegation of authority.* The administration of this order and the powers vested in the War Food Administrator, insofar as such powers relate to the administration of this order, are hereby delegated to the Director. The Director is authorized to redelegate to any employee of the United States Department of Agriculture any or all of the authority vested in him by this order.

(k) *Previous order by Director not abrogated.* The order (8 F.R. 4498) issued on April 6, 1943, by the Director of Food Distribution specifying quota periods and prescribing quotas, pursuant to Food Distribution Order No. 47, is not abrogated or suspended by the provisions hereof; but the term "other products," as defined herein, shall hereafter have the same meaning when used in said order by the Director.

(l) *General Preference Order M–118 superseded.* This order supersedes in all respects General Preference Order M–118 of the War Production Board, as amended (7 F.R. 4570), except that as to violations of said order or rights accrued, liabilities incurred, or appeals taken under said order prior to the effective time hereof, said General Preference Order M–118, as amended, shall be deemed in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to such violation, right, or liability.

(m) *Effective date.* This order shall become effective at 12:01 a. m., e. w. t., October 28, 1943. With respect to violations of Food Distribution Order No. 47, rights accrued, or liabilities incurred under said order prior to the effective time of this amendment, Food Distribution Order No. 47 shall be deemed to be in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, or liability.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807, E.O. 9334, 8 F.R. 5423)

Issued this 25th day of October 1943.

ASHLEY SELLERS,
Assistant War Food Administrator.

[F. R. Doc. 43–17315; Filed, October 26, 1943; 11:15 a. m.]

[FDO 47–2]

PART 1490—MISCELLANEOUS FOOD PRODUCTS

DELEGATION OF AUTHORITY WITH RESPECT TO HONEY

Pursuant to the authority vested in me by Food Distribution Order No. 47, issued by the Secretary of Agriculture on April 6, 1943, as amended (8 F.R. 4497, *supra*), effective in accordance with the provisions of Executive Order No. 9280, dated December 5, 1942, and Executive Order No. 9322, dated March 26, 1943, as amended by Executive Order No. 9334, dated April 19, 1943, and in order to effectuate the purposes of the aforesaid orders, it is hereby ordered, as follows:

§ 1490.6 *Delegation of authority*—(a) *Definitions.* When used herein, unless otherwise distinctly expressed or manifestly incompatible with the intent hereof:

(1) The term "order" means Food Distribution Order No. 47, issued by the Secretary of Agriculture on April 6, 1943, as amended.

(2) Each term defined in the order shall, when used herein, have the same meaning as set forth in said order.

(b) *Delegation of authority.* (1) There is hereby delegated to the Order Administrator and Alternate Order Administrator of the order, severally, authority to consider applications submitted pursuant to § 1490.2 (c) (2) of the order and, subject to such terms and restrictions as may be deemed by them to be advisable, to assign special quotas of honey pursuant to said section.

(2) The authority delegated in (b) (1) hereof shall be exercised by the Order Administrator and Alternate Order Administrator, respectively, of the order under and subject to the supervision of the Chief of the Special Commodities Branch, Food Distribution Administration, War Food Administration.

(c) *Retention of authority by Director.* Nothing herein contained shall be construed to abrogate any power or authority vested in the Director by the order.

(d) *Effective date.* This order shall become effective at 12:01 a. m., e. w. t., October 28, 1943.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; FDO 47, 8 F.R. 4497)

Issued this 25th day of October 1943.

ROY F. HENDRICKSON,
Director of Food Distribution.

[F. R. Doc. 43–17316; Filed, October 26, 1943; 11:15 a. m.]

[FDO 34, Amdt. 1]

PART 1460—FATS AND OILS

GLYCERINE

Correction

In F.R. Doc. 43–16939, appearing at page 14194 of the issue for Wednesday, October 20, 1943, the phrase in parentheses in paragraph (c) (2), first column, page 14195, should read "(but more than 50 pounds)."

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter II—War Food Administration (Packers and Stockyards)

PART 204—POSTED STOCKYARDS AND LIVE POULTRY MARKETS

ALBUQUERQUE LIVESTOCK SALES COMPANY, ALBUQUERQUE, N. MEX.

It has been ascertained that the Albuquerque Livestock Commission Company, Albuquerque, New Mexico, posted on December 20, 1939, as coming within the jurisdiction of the Packers and Stockyards Act, 1921, as amended, is now owned and operated by Thomas S. Mobley, doing business as the Albuquerque Livestock Sales Company, and that the name of the yard is now the Albuquerque Livestock Sales Company. Therefore, notice of such facts is given to the owner of such stockyard and to the public, and the name of the stockyard appearing on the list of posted stockyards in the Code of Federal Regulations, Title 9, Section 204.1 (Supp. 1939), as the Albuquerque Livestock Commission Company, Albuquerque, New Mexico, is changed to the Albuquerque Livestock Sales Company, Albuquerque, New Mexico.

(7 U.S.C. 1940 ed. 181 et seq.; E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423)

Done at Washington, D. C., this 25th day of October 1943.

ASHLEY SELLERS,
Assistant War Food Administrator.

[F. R. Doc. 43–17324; Filed, October 26, 1943; 11:16 a. m.]

TITLE 10—ARMY: WAR DEPARTMENT

Chapter VIII—Procurement and Disposal of Equipment and Supplies

[Procurement Regs. 2, 3, 6, 8, 9, 10]

PART 81—PROCUREMENT OF MILITARY SUPPLIES AND ANIMALS

NEGOTIATED PURCHASES, CONTRACTS, PLANT FACILITIES, EXPANSION, ETC.

The following amendments and additions to the regulations contained in Part 81, 83 and 88 are hereby prescribed. These regulations are also contained in War Department Procurement Regulations dated 5 September 1942 (7 F. R. 8082), as amended by Change 26, 15 October 1943.[1]

In section numbers the figures to the right of the decimal point correspond with respective paragraph numbers in the procurement regulations.

AUTHORITY: Sec. 5a, National Defense Act, as amended, 41 Stat. 764, 54 Stat. 1225; 10 U.S.C. 1193–1195, and the First War Powers Act 1941, 55 Stat. 838, 50 U.S.C. Sup 601–622.

NEGOTIATED PURCHASES

Section 81.223 is amended as follows:

§ 81.223 *Factors governing placement of contracts.* The selection of a contractor for a particular contract from among the available qualified producers depends on a number of factors. In making such selections effect must be given to various policies expressed by the Office of War Mobilization, by the War Production Board (see Directive No. 2, 18 September 1943), by the War Manpower Commission in its directives, and by Congress, as in the Smaller War Plants Act. These policies, their relation and relative importance are discussed in the following paragraphs, which are applicable both to the placement of new business and to the revision or reduction of existing programs:

(a) *West Coast manpower program.* The Office of War Mobilization has announced a West Coast Manpower Program effective 15 September 1943 to deal with the acute labor shortage problem in certain localities in that area. The War Production Board on 5 October 1943 announced a program dealing with the placement of contracts in the States of Washington, Oregon and California. Directives will be issued from time to time to establish War Department procedures for complying with these and any similar programs that may be adopted for other areas. As of this date (15 October 1943) immediate issuance of such a directive dealing with the States of Washington, Oregon and California is contemplated. The policies stated in paragraphs (b) to (d) of this section will be subject to the requirements of any such directives.

(b) *Ability to perform.* Primary emphasis shall be placed upon securing performance or deliveries at the time, in the quantity, and of the quality required by the war program. As indicated in paragraph (a) of § 81.222, the objective is to insure delivery in time to avoid delays in the war program, but to avoid creation of unnecessary inventories.

(c) *Labor supply policy.* (1) The War Manpower Commission has divided the country into twelve regions and from time to time classifies localities in each region according to their labor supply conditions and on this basis designates them as:

Group I: Areas of current acute labor shortage.

Group II: Areas of labor stringency and those anticipating a labor shortage within six months.

Group III: Areas in which a general labor shortage may be anticipated after six months.

Group IV: Areas in which labor supply is and will continue to be adequate to meet all known labor requirements.

The Industrial Personnel Division, Headquarters, Army Service Forces, will advise the technical services monthly, or more often if conditions warrant, of the designations of the Commission.

(2) When two or more contractors are considered equally able to perform a contract, the selection between them shall be based on the labor supply situation in the areas in which the facilities where the work is to be done are located, in accordance with paragraphs (d) and (e) below.

(d) *Labor shortage areas.* In accordance with paragraph (c) of this section the following policies will be observed with respect to the placing of contracts in Group I, II, or III labor areas:

(1) *Group I.* It is the intent to avoid so far as possible the placement of contracts in Group I areas. The only contracts which may be placed there are those (i) for which established special facilities exist and for which labor has been specially trained; or (ii) on which the required speed of deliveries cannot otherwise be met; or (iii) which, in the considered judgment of the chief of the technical service concerned or of any person or persons to whom he may delegate his authority, it is impracticable to place elsewhere.

(2) *Group II.* In these areas there may be placed any contract for the continuation of the production of items of the same character as those already being produced by the contractor for any government department if no labor is required in addition to that currently employed by such contractor. In addition, any contract may be placed in a Group II area which is of such character that it might properly be placed in a Group I area under the provisions of subparagraph (1) of this paragraph.

(3) *Group III.* In these areas there may be placed any contract (whether representing new or continuation business) which can be completed within six months and which will not require the employment of labor in addition to that normally or currently employed by the contractor. In addition, any contract may be placed in a Group III area which is of such character that it might properly be placed in a Group I or II area under the provisions of subparagraphs (1) and (2) of this paragraph.

(4) *Exceptions.* The restrictions stated in this paragraph (d) of this section do not apply to the placing of contracts:

(i) With firms which currently employ less than 100 wage earners and which will not employ more than 100 wage earners during the performance of the contract; or

(ii) With originating manufacturers for a newly developed article in accordance with § 81.224.

(e) *Labor surplus areas; Group IV labor areas.* There are no restrictions from the standpoint of labor supply upon the placement of contracts in Group IV areas or in areas not classified by the War Manpower Commission. Furthermore, the policy of the War Department is to distribute its business so as to utilize as widely as practicable the facilities of concerns located in Group IV, unclassified and Group III areas.

(f) *Subcontracting in labor shortage areas.* (1) Prime contractors holding the bulk of War Department contracts have received a request from the Under Secretary of War to apply principles similar to those described in paragraphs (c) to (e) of this section in placing their subcontracts for the fabrication of products required by their prime contracts. When new prime contracts which may involve subcontracting are made, the prime contractors will be advised of these principles by contracting officers and will be strongly urged to apply them in placing subcontracts.

(2) The restrictions relating to Group I, II and III areas are not intended to apply to existing subcontract relationships (particularly for the production of difficult or complicated items) where their application might tend to delay or interfere with production. Where to give effect to changes in the classification of labor supply areas occurring after the execution of a particular prime contract would decrease the efficiency or increase the cost of placing recurring subcontracts thereunder, the chief of a technical service or his duly authorized representative is authorized, pursuant to the First War Powers Act, 1941, to enter into and approve supplemental agreements to provide for the payment of any increased price to the prime contractor to cover increased costs resulting from such changes in subcontracting, in the same manner as provided in § 81.225 (f) (3). It is hereby determined that supplemental agreements entered into for this purpose will facilitate the prosecution of the war.

(3) Many prime contractors are regularly receiving the monthly classification of labor market areas issued by the War Manpower Commission. Arrangements may be made to have additional prime contractors supplied with them by communicating directly with the Division of Procurement Policy, War Production Board, Washington, D. C.

(g) *Other factors.* When policies relating to ability to perform and labor supply have been met, contracts will be placed so as to give due weight in each instance to the following objectives:

(1) *Cost and efficiency.* Placement of contracts so as to use the minimum number of manhours and the minimum quantity of material to make the supplies

[1] For previous changes see 7 F.R. 9268, 9660, 10184, 10247, 10640, 10906, 8 F.R. 401, 411, 2531, 3339, 3486, 3752, 5311, 5210, 6576, 7526, 8629, 8918, 9908, 11609, 12043, 13083 and 13791.

needed. In the long run this will result in the lowest cost to the Government. In the absence of actual data as to the relative efficiency of producers in utilizing manpower and material, their comparative prices are normally the best test of their relative efficiency in these respects, unless other differences between them (such as differences in their cost of transportation or in their expenditures for facilities) distort the comparsion. Whenever such information is needed producers will be required to furnish actual or estimated cost data covering their production. In so far as possible contracts should provide the maximum incentive to the producer for the reduction of his costs.

(2) *Small business concerns.* Placement of contracts so as to make the most effective utilization of the small plants of the nation. To this end, as large a proportion of awards as practicable will be made to qualified small concerns, directly if feasible and, if not, through awards to larger firms which will subcontract to small concerns. To achieve these objectives, payment of a reasonable premium to small concerns is authorized where necessary, in accordance with directives from time to time in effect.

(3) *Conservation of special abilities.* Conservation for the more difficult war production problems of the resources of concerns best able, by reason of engineering, managerial and physical resources, to handle them, through placement of contracts for items which involve relatively simple production problems with concerns, normally the smaller ones, which are less able to handle the more difficult problems.

(4) *New facilities.* Avoidance, so far as possible, of the creation of additional new (as distinguished from existing) machinery, equipment or facilities.

(5) *Transportation.* Conservation of transportation facilities by avoiding unnecessary crosshauling of raw, semi-finished or finished material from the point of origin to the point of consumption and by avoiding long hauling when such materials are available at a shorter distance.

(6) *More than one source of supply.* Placement of contracts, whenever practicable, so as to have for each item of supply and equipment at least two producers so located as not to be subject to the same hazard. Determination of whether it is practicable so to do shall be made by the chief of the technical service concerned.

(7) No one of the six objectives stated in this paragraph (g) of this section should alone be regarded as controlling. The placement or revision of contracts should reflect an evaluation of all these objectives which are applicable to the particular case.

(h) *Price.* (1) The application of the principles stated in paragraphs (a) to (g), inclusive, of this section will in some instances require the payment of prices higher than those of the lowest bidder. The technical services are hereby authorized and directed to pay higher prices than would otherwise be required to the extent that such action is necessary to carry out the foregoing policies.

(2) When the foregoing policies have been met and selection among available contractors is still possible, contracts will be so placed as to obtain the lowest price for the Government.

(i) *Exceptions.* [Rescinded] See § 81.228.

In § 81.224 paragraph (l) of the principles stated is amended as follows:

§ 81.224 *Contracts for newly developed articles.* * * *

(l) In general a substantial proportion of the initial orders for a new article should be placed with the manufacturer who developed it. Unless the chief of the technical service concerned deems it impracticable so to do effort should be made to place enough of the volume with other qualified producers to develop at least one other experienced source; except in unusual cases this should be a going production order and not a limited quantity educational order.

* * * * *

Section 81.227 is rescinded and a new § 81.227 added as follows:

§ 81.227 *Policies governing allocation of cutbacks.* The policies set forth in §§ 81.220 to 81.226 will be observed to such extent as may be practicable in connection with adjustments of supply contracts growing out of reductions in the Army supply program (see also §§ 88.15–103, 88.15–302).

Section 81.228 is redesignated § 81.229 and a new § 81.228 added as follows:

§ 81.228 *Exceptions.* Upon specific request the Director, Purchases Division, Headquarters, Army Service Forces may grant authority to depart from the policies stated in §§ 81.220 to 81.228. Requests for such authority stating the reasons therefor will be forwarded to the Purchases Division, Headquarters, Army Service Forces. One such specific exemption granted to The Quartermaster General is referred to in QMS paragraph 2–2–3d (29 Je. 43).

§ 81.229 *Labor aspects of production rescheduling.* See § 88.15–324.

CONTRACTS

Section 81.303 is amended by adding the following preceding paragraph (a).

§ 81.303 *General requirements for contracts.* Every purchase transaction except those where payment is made coincidentally with receipt of supplies will be evidenced by a written contract.

Where it has been administratively determined by the commanding officer as more economical and advantageous in the interest of the war effort, Class B agent officers may be appointed in procurement installations under the provisions of AR 35–320 for the purpose of making cash payments for emergency purchases and nonpersonal services not exceeding $100. The use of War Department Form No. 332 (Public Voucher—Emergency Purchases and Nonpersonal Services Not Exceeding $100), properly executed and supported by certified invoices, will be used for this purpose. War Department Form No. 332 may be closed periodically to suit local conditions and submitted to the disbursing officer for credit in the agent officers' accounts as prescribed by AR 35–320.

War Department Form No. 332, when used as authorized in above paragraph will be prepared in quadruplicate (original and three memorandum copies) and distributed as follows:

(a) Original and duplicate to accountable disbursing officer, supported by certified invoices.

(b) Triplicate to accountable property officer, supported by certified invoices and the following certificate:

I certify that the supplies enumerated hereon were received by me and that payment therefor has been made by me as agent officer in cash this _____ day of _____ 19____, from funds intrusted to me by _____, finance officer at property listed hereon (if any) will be accounted for by the _____ property officer at _____, and that the expendable items hereon designated thus (x) are for immediate consumption in current service in _____

_____

(State purpose for which the expendable supplies are to be immediately used. For example: "Operation of motor trucks or airplanes," "troops on the march," etc.)

Allotment No. _____

_____

(Name, grade, and organization) Agent Officer

(c) Quadruplicate, without attachments, to Fiscal Officer, Service Command Headquarters, for property audit files. This copy will be stamped with stamp of agent officer to indicate payment in cash or by check.

When funds are expended in accordance with the procedure outlined in second and third paragraphs above, the transaction need not be evidenced by any written contract or purchase order, since payment will be made coincidentally with receipt of supplies.

* * * * *

Section 81.332 is amended as follows:

§ 81.332 *Government-owned facilities clause.* In those cases where the contractor is to acquire or manufacture facilities for the account of the Government, or the Government is to furnish facilities to the contractor, for use in connection with the contractor's work under a Government contract, the contract will contain an article substantially as follows:

Government-owned facilities. (A) In connection with its work under this contract, the contractor shall, within the shortest practicable time, acquire or manufacture for the Government's account the facilities listed in Schedule "A" attached hereto, the estimated costs of which are therein stated. (With the prior written approval of the contracting officer as to their character and estimated costs, the contractor may substitute facilities similar to those listed in Schedule "A", in which event said Schedule will be modified accordingly.) Such facilities shall be installed by the contractor in its plant or plants, or, if approved in writing by the contracting officer, in the plants of subcontractors. The contractor shall insert provisions in all subcontracts under which such facilities are furnished to the subcontractors whereby there will be made applicable to the Government and the subcontractors substantially the same rights and obligations in respect to such facilities as are made ap-

plicable to the Government and the contractor under this Article.

(B) Upon inspection and acceptance of the facilities by the contracting officer, and upon the contractor's furnishing satisfactory evidence that it has made payment, the Government shall reimburse the contractor for the actual costs of Schedule "A" facilities, approved by the contracting officer. The term "actual costs", as used in this Article, means the following:

(1) For facilities procured by the contractor from sources other than its own manufacture:

(a) The net invoice price to it of the facilities;

(b) The costs of transportation: *Provided,* That no costs of transportation shall be separately reimbursed when the invoice price reimbursed under (1) (a) hereof includes the costs of transportation;

(2) For facilities manufactured by the contractor:

(a) The net invoice price to it of all direct materials required in manufacture;

(b) The costs of transportation: *Provided,* That no costs of transportation shall be separately reimbursed when the invoice price reimbursed under (2) (a) hereof includes the costs of transportation;

(c) The costs to it of all direct labor required in manufacture;

(d) An amount equal to ------[1] per cent of item (2) (c) hereof as an allowance for all overhead and administrative expenses. The contractor represents, based on experience, that this amount does not include any element of profit, and represents no more than actual costs allocable to manufacture.

The contractor shall install all Schedule "A" facilities at its own expense.[2]

(C) In the event the contracting officer shall determine, at any time prior to installation of any item of Schedule "A" facilities, that such item is not reasonably necessary for the performance of this contract, or any other contract for the performance of which the use of that item has been authorized pursuant to paragraph (E) (2), within the time allowed for such performance, he may by written order exercise one of the following options with respect to that item:

(1) If the contractor has made no binding commitment and incurred no expense therefor of a kind reimbursable hereunder as an actual cost: The contracting officer may eliminate the item from Schedule "A" and the Government shall be relieved of any liability therefor.

(2) If the contractor has made a binding commitment or incurred expense therefor of a kind reimbursable hereunder as an actual cost: The contracting officer may direct the contractor to stop all further work and the making of all further commitments thereon and eliminate the item from Schedule "A". In that event the contractor and the contracting officer will attempt to agree on an amount which will reasonably compensate the contractor for the actual cost incurred by him with regard to such eliminated item. If no such agreement is reached within thirty (30) days after the date of elimination (or within such longer period as may at any time be mutually agreed upon), the contractor will be paid an amount, if any, which together with all sums previously paid by the Government on account of the item, shall be sufficient to reimburse the contractor for expenses paid and the settlement of any obligation incurred by the contractor thereon. In lieu of reimbursing the contractor for the settlement of obligations, the Government, in the discretion of the contracting officer, may assume such obligations or any of them. In no event shall the aggregate of reimbursement on account of the item (and of all payments previously made) together with the amount of any obligations assumed, exceed the actual costs, as herein defined, expended or incurred thereon up to the time of such elimination. The contracting officer may permit the contractor to sell or retain at prices or on terms agreed to by the Government any materials, supplies, or work in process, and the proceeds of such sale, or such agreed prices, shall be paid or credited to the Government in such manner as the contracting officer may direct. Upon payment to the contractor pursuant to this subparagraph (2), title to all materials, supplies, work in process and other things for which payment is made (except such property as may be sold or retained as above provided) will vest in the Government (if title thereto has not already vested in the Government). The Government will also become entitled to any rights under any commitment which it may assume, or for the settlement of which it shall have reimbursed the contractor.

(3) The contracting officer may direct the diversion of the item, when it shall have been acquired or its manufacture shall have been completed, to the Government or to any person designated by the contracting officer. In that event the Government shall reimburse the contractor for the actual costs of the item in accordance with the provisions of paragraph (B) hereof, with appropriate adjustment in the amount of reimbursable transportation costs. Upon diversion, the item will be eliminated from Schedule "A".

(D) Except with the prior written approval of the contracting officer for each such purchase, the contractor will not purchase any Schedule "A" facilities in which it had any property interest at any time after the commencement of negotiations for this contract.

(F) (1) The contractor shall not be liable for direct physical loss, damage or destruction of Schedule "A" facilities title to which has vested in the Government (a) caused by any peril while the facilities are in transit off the contractor's premises, or (b) caused by any of the following perils while the facilities are on the contractor's premises or by removal therefrom because of any of the following perils:

Fire; lightning; windstorm, cyclone, tornado, hail; explosion; riot, riot attending a strike, civil commotion; vandalism and malicious mischief; aircraft or objects falling therefrom; vehicles running on land or tracks, excluding vehicles owned or operated by the contractor or any agent or employee of the contractor; sprinkler leakage; earthquake; rising navigable waters; enemy attack or any action taken by the military, naval or air forces of the United States in resisting enemy attack.

(2) The burden shall be upon the contractor to establish that any loss, damage or destruction of Schedule "A" facilities was caused by any of the perils referred to (1) above (hereinafter called excepted perils).

(3) The contractor shall, with all reasonable speed, notify the contracting officer of the happening of any excepted peril, protect the facilities from further damage, separate the damaged and undamaged facilities, put them in the best possible order, and furnish a complete inventory of the destroyed, damaged and undamaged facilities. The contractor shall be liable for any loss, damage or destruction caused by the failure of the contractor or his employees to use all reasonable means to save and preserve the facilities at and after the happening of an excepted peril.

(4) Except to the extent of any loss, damage or destruction for which the contractor is relieved of liability under (1) above and except for reasonable wear and tear, Schedule "A" facilities shall be returned by the contractor to the Government, or delivered by the contractor to any designee of the Government (at the time elsewhere in this Article provided) in as good condition as when received. In aid to its obligation so to return or deliver the facilities, the contractor shall, at its own expense, maintain a program for the proper use, care and maintenance of the facilities and make repairs and replacements.

(E) (1) Title to each item of Schedule "A" facilities shall vest in the Government immediately upon inspection and acceptance thereof by the contracting officer, or at such earlier time as the contracting officer may designate in writing. Such facilities shall be deemed personal property although they may be affixed to realty.

(2) The Government hereby grants to the contractor the right to use Schedule "A" facilities, without the payment of rental therefor, in connection with its work under this contract, and, subject to the written approval of the contracting officer and upon such terms as he may prescribe, in connection with any other work for which the Government and the contractor may heretofore have contracted, or may hereafter contract. (Where the Government, pursuant to this paragraph (E) (2), has granted to the contractor the right to use Schedule "A" facilities in connection with its work or any contract other than the contract of which this article is a part, the contractor shall at any time, upon the request of the contracting officer, enter into suitable amendments of this article or suitable separate agreements of lease of the facilities evidencing the terms upon which the facilities are than held.)

(5) Whenever any item of Schedule "A" facilities has become unserviceable (whether under circumstances which do or which do not render the contractor liable hereunder), the contractor shall notify the contracting officer and at the direction of the contracting officer dismantle and prepare the item for shipment at the contractor's expense, whereupon it shall be removed by the Government at the Government's expense.

(6) The Government shall not be obligated to make any repairs or replacements or to restore any loss, damage or destruction of Schedule "A" facilities.

(7) The contractor warrants that it is not maintaining and agrees that it will not hereafter maintain insurance (including self-insurance) covering Schedule "A" facilities, and warrants that it is not including, and agrees that it will not hereafter include in any price to the Government any charge or reserve for such insurance.

(8) In the event the contractor is indemnified, reimbursed or compensated for any loss, damage or destruction of Schedule "A" facilities caused by an excepted peril, it

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[1] Insert a number or the word "no".

[2] If costs of installation are to be reimbursed to the contractor, delete this sentence and substitute the following:

(3) For the installation of facilities acquired or manufactured hereunder, when effected by the servants, agents or employees of the contractor:

(a) The net invoice price to it of all direct materials required for installation;

(b) The costs of transportation: *Provided,* That no costs of transportation shall be separately reimbursed when the invoice price reimbursed under (3) (a) hereof includes the costs of transportation;

(c) The costs to it of all direct labor required for installation;

(d) An amount equal to—[insert a number or the word "no"] per cent of item (3) (c) hereof as an allowance for overhead and administrative expenses. The contractor represents, based on experience, that this amount does not include any element of profit, and represents no more than actual costs allocable to installation.

(4) For the installation of facilities acquired or manufactured hereunder, when effected by persons other than the servants, agents or employees of the contractor:

(a) The net invoice price to it of the installation.

shall to the same extent promptly reimburse the Government. The contractor shall do nothing to prejudice the Government's rights to recover against third parties for any such loss, damage or destruction, and, upon request of the contracting officer, shall furnish to the Government all reasonable assistance and cooperation (including the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(G) Each item of Schedule "A" facilities shall be suitably marked with an identifying mark or symbol, indicating that such item is the property of the Government. Upon completion of the installation of such facilities, the contractor shall submit to the contracting officer a detailed inventory list including a description of the identifying mark or symbol on each item.

(H) The Government shall not be responsible for damages to property of the contractor or for personal injuries to the contractor's officers, agents, servants or employees, or other persons on the premises as invitees or licensees of the contractor, arising from or incident to the use of Schedule "A" facilities, and the contractor shall save the Government harmless from any and all such claims: *Provided,* That nothing in this paragraph shall be deemed to affect any liability of the Government to its own employees.

(I) The contracting officer or his duly authorized representatives shall at all times have access to the building or buildings wherein any Schedule "A" facilities are situated for the purpose of inspecting or inventorying such facilities or of removing them in pursuance of this Article.

(J) Except as otherwise in this Article specifically provided, the contractor shall not remove or otherwise part with the possession of any Schedule "A" facilities. The contractor shall not pledge or assign, or transfer or purport to transfer title to any of such facilities in any manner to any third person, either directly or indirectly, nor do or suffer anything to be done whereby any of such facilities shall or may be seized, taken in execution, attached, destroyed or injured. Any violation of the provisions of this paragraph or of paragraph (F) hereof shall entitle the Government forthwith to enter upon the premises wherein such facilities are found and remove the same.

(K) In the event the contracting officer shall determine, at any time after installation of any item of Schedule "A" facilities, that the item is not reasonably necessary for the performance of this contract or any other contract for the performance of which the use of such facilities has been authorized, he may serve on the contractor a written notice of his intention to remove such item. At any time within one year after completion or termination in whole or in part of such contracts, the contracting officer may serve on the contractor a written notice of his intention to remove all the Schedule "A" facilities or any portion thereof. Within the shortest practicable time after service of a notice under this paragraph (K), and in no event later than fifteen days thereafter (unless a larger time is allowed by the contracting officer), the contractor, at its own expense, will have dismantled and prepared for shipment the items affected. Upon notification from the contractor that the items are ready for shipment, the Government shall remove them at the Government's expense.

(L) If, upon the completion or termination of this contract or any other contract entered into between the Government and the contractor for the performance of which the use of Schedule "A" facilities has been authorized, no notice pursuant to paragraph (K) of intention to remove an item has been received, the contractor shall, at its own expense, place the item in stand-by condition, and thereafter maintain it in such condition for a period of ninety (90) days from the date of such completion or termination (unless a notice pursuant to paragraph (K) is received in the meantime).

(M) Unless a notice pursuant to paragraph (K) is sooner received, the contractor shall, for a period of nine (9) months after completion of the stand-by period, store the items affected as follows:

(1) In the plant where the items are then located, or in the contractor's other plants in the same locality, if space is available thereat and storage will not materially impair the use of the plant or plants for the contractor's Government or commercial work; or

(2) If space is not available at such plant or plants or storage thereat will materially impair their use by the contractor, then at any other place or places in the vicinity selected by the contractor which are considered satisfactory by the contracting officer. However, the contractor's obligation to store under this subparagraph (2) shall cease if such other place or places cannot be obtained by the contractor, unless the Government shall itself find and designate a place or places of storage.

At the time the items are placed in storage, whether in the contractor's plant or elsewhere, the parties shall attempt to negotiate a Supplemental Agreement to this contract providing payment to the contractor of a sum or sums agreed upon as representing the reasonable expenses of placing and maintaining the items in storage. In the absence of such agreement, the contractor shall be entitled to receive payment, under this contract, of such reasonable expenses. The contractor's obligation in respect to storage shall be contingent upon the availability of appropriated funds for payment of such reasonable expenses, and if appropriated funds are not available, the contractor shall be under no such obligation. The items affected shall have been dismantled and prepared for shipment, at the contractor's expense, within fifteen days after the expiration of the storage period, or if no storage obligation arises, then within fifteen days after the expiration of the stand-by period (unless a longer time is allowed by the contracting officer). Upon notification from the contractor that the items are ready for shipment, the Government shall remove them at the Government's expense.

(N) The ninety (90) day stand-by period, and the nine (9) month storage period, may be eliminated, shortened or lengthened by agreement of the parties on mutually agreeable terms.

[2] (O) The Government reserves the right to furnish to the contractor f. o. b. the contractor's plant any or all the items of Schedule "A" facilities upon written notice by the contracting officer to the contractor at any time prior to the installation of such items. In such event the contracting officer shall exercise the option described in paragraph (C) (1) or (C) (2) with respect to the item, eliminate it from Schedule "A", and place it on the list of Schedule "B" facilities hereinafter provided for.

[3] (P) The Government shall furnish to the contractor f. o. b. the contractor's plant, the Government-owned facilities listed in Schedule "B" attached hereto, not later than the dates shown thereon. The contractor shall receive the same in their then condition, without warranty express or implied on the part of the Government as to serviceability or fitness for use. The contractor shall bear the costs of installation of such facilities.[4] Schedule "B" facilities shall be held by the contractor and considered and treated in the same manner as Schedule "A"-facilities under the pursuant to [5] paragraphs (E) (2) and (F) to (N) inclusive of this article.

[3] (Q) The contractor has in its possession, installed and ready for use under this contract, the facilities listed in Schedule "C", title to which is in the Government. Such facilities shall be held by the contractor and considered and treated in the same manner as Schedule "A" facilities under and pursuant to paragraphs (E) (2) and (F) to (N) inclusive of this article. Any previous agreement to the contrary is hereby modified accordingly.

NOTE 1: Cross references: See § 81.723 and Procurement Regulation No. 10 (§§ 81.1001–81.1019).

NOTE 2: This article is primarily designed for inclusion in lump sum or fixed-price contracts. When it is used in a cost-plus-a-fixed-fee contract, certain changes may become necessary or advisable. For example, it may be found advisable to refer to the general cost definition appearing in the contract, rather than to define costs in the manner set forth in paragraph (B).

NOTE 3: Where it is determined that a rental should be charged (see § 81.1002 paragraph (L) (2) of the article should be appropriately modified.

NOTE 4: Attention is invited to the fact that Government bills of lading (or commercial bills of lading to be converted into Government bills of lading at destination) may be availed of to secure the benefits of land grant freight rates where title to the facilities or parts thereof is in the Government at point of origin (see paragraphs (E) (1) and (B)).

NOTE 5: In cases where facilities are hereafter to be acquired or manufactured by, or furnished by the Government to, a contractor, a clause may be included granting an option to the contractor to purchase the facilities, provided the chief of the technical service finds that such action will be in the interest of the Government. (The power to make this finding is not subject to delegation by the chief of the technical service.) In such cases, unless otherwise authorized by the Director, Purchases Division, Headquarters, Army Service Forces, the option will contain the following features:

(i) The option will come into effect only upon the date of expiration of the standby-plus-storage period, and will cover all, but not part of, the facilities as to which a standby obligation arose as to which no notice under paragraph (K) of intention to remove has been served upon the contractor during the standby-plus-storage standby period.

(ii) The option period will extend for not more than fifteen days after the date specified in Note 5 (i).

(iii) The option price will be the full cost of the facilities to the Government (including transportation and installation charges) less specified rates of depreciation, plus storage charges incurred under paragraph (M).

NOTE 6: Amendments may be made of existing contracts, substituting the article above set forth (or pertinent portions thereof) for provisions regarding Government-owned facilities now appearing in such contracts, subject to the following:

(i) Uniformity of treatment is considered essential. Accordingly, authority to make these amendments will not be exercised until the technical service concerned apprises all its contractors holding Government-owned facilities of the promulgation of the article above set forth and specifically informs them that they may negotiate with the Government for amendment of their contracts.

(ii) Government negotiators must recognize that contractors will typically derive substantial benefits from these amendments. For example, under the article above set forth the standby period is ninety days and

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[2] Delete if inapplicable.

[3] If such costs are to be reimbursed to the contractor, make appropriate changes (see paragraphs (B) (3) (a) (c) (d) and (B) (4) (a) above).

[4] Insert "subparagraphs (1) and (3) of paragraph (O) and" if contractor is to be reimbursed the costs of installation of Schedule "B" facilities.

storage is at Government expense, while under the article previously authorized the standby period was one year, and storage expenses were not chargeable to the Government. In general, the article above set forth facilitates the conversion of plants. Accordingly, amendments of existing contracts will be permitted only where the Government receives material and adequate consideration, measured by any difference in value to the contractor between the superseded article and the article inserted by amendment.

(iii) Except with the approval of the chief of the technical service concerned, no amendment will be permitted of an existing Government-owned facilities article which includes a purchase option, unless, as part of the amendment, the purchase option is modified to include the features mentioned in Note 5 (i), (ii), and (iii) above. (The power to give such approval is not subject to delegation by the chief of the technical service.) The approval of the Director, Purchases Division, Headquarters, Army Service Forces, will be obtained before any existing Government-owned facilities article which does not include a purchase option, is amended to grant such option.

(iv) The technical services will maintain close supervision of all amendments under this Note 6 and will require adequate records to be prepared and preserved of the negotiations leading to the amendments.

In § 81.352 paragraph (b) is amended as follows:

§ 81.352 *Delays; damage clause.* * * *

(b) If desired, the word "unforeseeable", contained in the clause set forth in the introductory paragraph of this section, may be omitted. If the word is omitted, and bids are being solicited informally or otherwise, and there exists some foreseeable and probable cause of delay which would be beyond the control of the contractor, care should be exercised in evaluating the various bids submitted. It is possible under those circumstances for contractor "A" to submit a bid which requires performance within a time schedule which could not possibly be adhered to if such cause of delay materialized. Under the delays-damages clause, as modied in accordance with this paragraph (b), the failure to perform within the time schedule might well be construed as an excusable delay. Contractor "B", although capable of performing with as great despatch as "A" may allow for the probable cause of delay, and submit a bid calling for deliveries at a date later than that offered by "A". In evaluating the two bids, the fact that "A" has not made allowance for the probable cause of delay should be taken into account.

* * * * *

Section 81.395 is added as follows:

§ 81.395 *Contracts within section 9, Military Appropriation Act, 1944*—(a) *Statutory provision.* Section 9, Military Appropriation Act, 1944 (Public No. 108, 78th Congress) provides:

Whenever, during the fiscal year ending June 30, 1944, the Secretary of War should deem it to be advantageous to the national defense, and if in his opinion the existing facilities of the War Department are inadequate, he is hereby authorized to employ, by contract or otherwise, without reference to section 3709, Revised Statutes, civil service or classification laws, or section 5 of the Act of April 6, 1914 (38 Stat. 335), and at such rates of compensation (not to exceed $25 per day for individuals) as he may determine, the services of architects, engineers, or firms or corporations thereof, and other technical and professional personnel as may be necessary.

(b) *Approval of contracts.* Contracts within the statute above quoted must be approved by the Secretary of War (Under Secretary of War). Accordingly, notwithstanding anything contained in §§ 81.304 through 81.308, inclusive, of this Procurement Regulation No. 3, each contract of this type, regardless of amount, and each supplemental agreement and change order making a material change in such a contract, will contain a provision stating that it is subject to the approval of the Secretary of War or Under Secretary of War, and will not be binding until so approved; and such contract, supplemental agreement or change order will be forwarded for approval by the chief of the technical service involved through the Director, Purchases Division, Headquarters, Army Service Forces. The chief of the technical service, in recommending approval, will refer specifically to the statute above quoted and will furnish a full statement of facts supporting the findings and determination required by the statute to be made by the Secretary of War (Under Secretary of War).

(c) *Citation of authority.* Each contract, supplemental agreement and change order will cite, as authority, the First War Powers Act, 1941, and Executive Order No. 9001 as well as the statute above quoted.

(d) *Compensation limited.* The Office of The Judge Advocate General advises that the limitation of compensation to $25 per day for individuals applies to contracts otherwise within the statute above quoted made by the Government:

(1) With individuals who are to furnish their technical or professional service direct to the Government;

(2) With firms or corporations which are to employ individuals who furnish their technical or professional services to the firms or corporations, when the contracts made by the Government with the firms or corporations are on a cost reimbursable basis.

In the cases mentioned, the contracts will expressly limit the compensation payable to the individuals to not more than $25 per day.

INTERBRANCH AND INTERDEPARTMENTAL PURCHASES

In section 81.605b paragraph (a) (2) is added and paragraph (b) is amended as follows:

§ 81.605b *Contracts for recapping and retreading tires, and repairing tires and tubes*—(a) *General.* * * *

(2) The contracts referred to in subparagraph (1) of this paragraph are not applicable to the recapping and retreading of tires and the repairing of tires and tubes by the Army Air Forces, when such tires and tubes are to be used on aircraft and special purpose vehicles.

(b) *Procedure for placing orders.* The same type of delivery order as is used for placing orders under the General Schedule of Supplies (see § 81.614) will be used for placing orders under the Ordnance contracts, except that there will be added a certificate reading as follows:

None of the supplies or services covered by this instrument are to be used in violation of legal restrictions quoted in Circular No. 175, War Department 1943.

* * * * *

Paragraph (g) of § 81.606 is amended as follows:

§ 81.606 *Purchases under contracts of Procurement Division, Treasury Department.* * * *

(g) *Mandatory schedules.* The following is a list of the classes of the General Schedule of Supplies which are mandatory on the field services of the War Department:

Description of item	Schedule of supplies	Period
Explosives and blasting accessories	4, Supp. No. 1	Jan. 1 to Dec. 31, 1943.
Gasoline: Tank wagon and drum deliveries, tank-car, transport-truck and marine deliveries.	7 and Supps., Regions 1 to 6, incl.	July 1, 1943, to June 30, 1944.
Fuel oil: Tank-wagon and drum deliveries, tank-car, transport-truck, and marine deliveries.	7 and Supps., Regions 1 to 6, incl.	July 1, 1943, to June 30, 1944.
Gasoline, Diesel oil, and lubricating oil, service-station deliveries.	7 and 14	July 1, 1943, to June 30, 1944.
Tire chains	8, Supp. No. 3	July 1, 1943, to June 30, 1944.
Greases and gear lubricants	14, Supp. No. 1	May 15, 1943, to Dec. 31, 1943.
Automotive storage batteries	17, Supp. No. 2	Sept. 15, 1943, to Mar. 15, 1943 (extended to Mar. 15, 1944).
Telephones and parts	17, Supp. No. 6	Sept. 1, 1941, to Aug. 31, 1942 (portion extended to Feb. 29, 1944).
Electric lamps	17, Supp. No. 3A	Sept. 1, 1942, to Aug. 31, 1943 (extended to Aug. 31, 1944).
Wood furniture	26, Part I	Jan. 1 to Dec. 31, 1942 (portion extended to Dec. 31, 1943).
Wood furniture	26, Part I	Jan. 1 to Dec. 31, 1943.
Victory chairs	26, Part I, Supp. No. 1	Apr. 1 to Dec. 31, 1943.
Common spline-seat chair	26, Part I, Supp. No. 2	June 1, 1943, to Dec. 31, 1943.
Steel furniture	26, Part II	Jan. 1 to Dec. 31, 1942 (portion extended to Dec. 31, 1943).
Steel insulated filing cabinets	25, Part II, Supp. No. 1	July 1, 1943, to Dec. 31, 1943.
Floor coverings	27, Supp. No. 5	Jan. 1 to Sept. 30, 1943 (extended to Mar. 31, 1944).
Floor and window coverings (not obligating the field services of the War Department for certain items).	27, Supp. No. 7	Apr. 15 to Sept. 30, 1943 (portion extended to Mar. 31, 1944).
Books	35	Dec. 1, 1942, to Nov. 30, 1943.
Books	35, Supp. No. 2	Dec. 21, 1942, to Nov. 30, 1943.
Machine tools (only the following items: 40-M-9-100, and 40-P-22 to 40-P-37, incl.).	40	Sept. 1, 1943, to Feb. 29, 1944.
Woodworking saws	40, Supp. No. 1	Aug. 15, 1942, to June 30, 1943 (extended to June 30, 1944).
Paper drinking cups	53, Supp. No. 2	July 1, 1943, to June 30, 1944.
Office equipment	54	July 1, 1942, to June 30, 1943 (portion extended to June 30, 1944).
Offset duplicating supplies and certain office equipment.	54	July 1, 1943, to June 30, 1944.

Description of item	Schedule of supplies	Period
Electric typewriters	54, Supp. No. 5 (issued in Amendment No. 55).	Aug. 1, 1942, to June 30, 1943 (extended to June 30, 1944).
Office equipment	54, Supp. No. 7 (issued in Amendment No. 113).	Oct. 24, 1942, to June 30, 1943 (extended to June 30, 1944).
Office equipment	54, Supp. No. 10	Dec. 22, 1942, to June 30, 1943 (extended to June 30, 1944).
Copy holders and recording and reproducing machines.	54, Supp. No. 11	Feb. 15, to June 30, 1943 (portion extended to June 30, 1944).
Portable drinking fountains	63, Supp. No. 1	Mar. 1, 1942, to Feb. 23, 1943 (extended to Feb. 29, 1944).
Airplane tires and tubes	83	Apr. 24 to June 30, 1942 (extended to Sept. 30, 1943).
Recording and transcription service	103, Supp. No. 2	Sept. 15, 1942, to Aug. 31, 1943 (extended to Aug. 31, 1944).
Household and quarters furniture	(Part I)	July 1 to Dec. 31, 1943.
Household and quarters furniture	(Part II)	June 15 to Dec. 31, 1943.

NOTE: Attention is called to the provisions of § 81.1187. Items, the purchase of which is restricted by that section, shall not be purchased except in accordance with the provisions of that section even though they may be listed on the General Schedule of Supplies.

FEDERAL, STATE AND LOCAL TAXES

In § 81.809a paragraph (f) is amended as follows:

§ 81.809a *Policies with respect to contracts or purchases made on or after March 1, 1943.* * * *

(f) *Exception to tax policy with respect to radio apparatus, parts and similar items.* In some instances contractors have experienced difficulty in ascertaining whether particular items and parts of certain specialized military and naval equipment fall within the category of articles enumerated in section 3404, Internal Revenue Code as amended by section 545, Revenue Act of 1941. Accordingly, as an exception to the tax policy set forth in paragraph (a) of this section (see paragraph (d)), contracting officers are given authority to make prime contracts by the terms of which the prime contractor will be permitted to make purchases, on a basis exclusive of tax, of articles which are or may be subject to the tax imposed by section 3404 or section 3444 (so far as it relates to articles enumerated in section 3404), Internal Revenue Code, whether such articles (1) constitute subsidiary articles, or (2) are acquired by the prime contractor for transfer by him to the United States as purchase articles. With respect to any such purchases, the prime contractor may be authorized to issue tax exemption certificates in accordance with Treasury Decision 5114 and subject to its limitations.

* * * * *

LABOR

In § 81.975 paragraph (a) is amended as follows:

§ 81.975 *Executive Order No. 9250,* dated October 3, 1942, establishes a national wage and salary stabilization policy pursuant to the Act of October 2, 1942 entitled "An Act to Amend Emergency Price Control Act of 1942, to Aid in Preventing Inflation, and for Other Purposes, as amended by the Public Debt Act of 1943 (Public Law 34—78th Congress)". Titles II, III, and VI of that order deal with wage and salary stabilization, and, in general, provide that the administration and enforcement of the stabilization policy will be under the direction of the National War Labor Board and of the Economic Stabilization Director.

(a) *Title II of Executive Order No. 9250 provides:*

1. No increases in wage rates, granted as a result of voluntary agreement, collective bargaining, conciliation, arbitration, or otherwise, and no decreases in wage rates, shall be authorized unless notice of such increases or decreases shall have been filed with the National War Labor Board and unless the National War Labor Board has approved such increases or decreases.

2. The National War Labor Board shall not approve any increase in the wage rates prevailing on Sept. 15, 1942, unless such increase is necessary to correct maladjustments or inequalities, to eliminate substandards of living, to correct gross inequities, or to aid in the effective prosecution of the war.

Provided, however, That where the National War Labor Board or the Price Administrator shall have reason to believe that a proposed wage increase will require a change in the price ceiling of the commodity or service involved, such proposed increase, if approved by the National War Labor Board, shall become effective only if also approved by the Director.

3. The National War Labor Board shall not approve a decrease in the wages for any particular work below the highest wages paid therefor between Jan. 1, 1942, and Sept. 15, 1942, unless to correct gross inequities and to aid in the effective prosecution of the war.

4. The National War Labor Board shall, by general regulation, make such exemptions from the provisions of this title in the case of small total wage increases as it deems necessary for the effective administration of this order.

5. No increases in salaries now in excess of $5,000 per year (except in instances in which an individual has been assigned to more difficult or responsible work), shall be granted until otherwise determined by the Director.

6. Except as provided in regulations issued by the Director, no decreases shall be made by any employer in the salary for any particular work below the highest salary paid therefor between January 1, 1942, and September 15, 1942, if the effect of the decrease is to reduce the salary below $5000 per annum.

7. The policy of the Federal Government, as established in Executive Order No. 9017 of January 12, 1942, to encourage free collective bargaining between employers and employees is reaffirmed and continued.

8. Insofar as the provisions of Clause (1) of section 302(c) of the Emergency Price Control Act of 1942 are inconsistent with this order, they are hereby suspended.

* * * * *

In § 81.977d paragraphs (a), (f) and (g) are amended as follows:

§ 81.977d *General terms* (§ 1002.1). When used in the regulations in this part, unless otherwise distinctly expressed or manifestly incompatible with the intent thereof.

(a) The term "Act" means the Act of October 2, 1942 (Public No. 729, 77th Congress) entitled "An Act to Amend the Emergency Price Control Act of 1942, to aid in preventing inflation, and for other purposes," as amended by the Public Debt Act of 1943 (Public No. 34, 78th Congress) entitled "An Act to Increase the Debt Limit of the United States and for other purposes."

* * * * *

(f) The term "General Regulations" means amended regulations (relating to wages and salaries) promulgated by the Economic Stabilization Director on August 23, 1943 (8 F.R. 11960), and as amended or supplemented by subsequent regulations relating to wages and salaries promulgated by the Economic Stabilization Director.

(g) The term "in contravention of the Act" means in contravention of the Act of October 2, 1942 (referred to in paragraph (a) above). Executive Order No. 9250 of October 3, 1942 (7 F.R. 7871), Executive Order 9299 of February 4, 1943 (8 F.R. 1659), Executive Order 9328 of April 8, 1943 (8 F.R. 4681), the General Regulations, these regulations and other orders, rulings, and regulations promulgated under such Act.

The second paragraph of § 81.977i is amended to read as follows:

§ 81.977i *Salary payments.* (§ 1002.6). * * *

Retainer fees paid to an individual not otherwise an employee are not to be considered as salary. (See § 1002.8 re insurance and pension benefits.)

* * * * *

Section 81.977k is amended as follows:

§ 81.977k *Insurance and pension benefits.* (§ 1002.8).

Compensation may include insurance and pension benefits. In determining the amount of salary of an employee, the insurance or pension benefit inuring to such employee is not measured by what he will be entitled to receive after the happening of certain contingencies, but rather in terms of the amount of contributions or premiums paid by the employer. To the extent that an insurance and pension benefit inuring to an employee is reasonable in amount, such benefit is not considered a salary as defined in § 1002.6.

Contributions by an employer to an employee's retirement plan, which plan meets the exemption requirements of section 165 (a) of the Code (as of the date the contributions are made), shall be considered as reasonable regardless of the amount of such contributions: *Provided, however,* That contributions by an employer to a stock bonus or profit-sharing plan meeting the requirements of such section 165 (a) providing benefits distributable other than on the death, retirement, sickness, or disability of the employee shall be treated as salary. On the other hand, contributions by an employer to an employee's pension trust which is subject to Federal income taxation or which does not meet the requirements of such section 165 (a) shall be treated, for purposes of these regulations, as salary.

Amounts paid by an employer on account of insurance premiums on a policy on the life of an employee, the beneficiaries of which are designated by the employees, to the extent that they do not exceed five percent of the employee's annual salary determined without the inclusion of insurance and pension benefits and without the inclusion of bonus and additional compensation, are not considered as salary. The type of insurance on the life of the employee referred to in this section is the ordinary or whole life policy which does not provide for a cash surrender or loan value, or both, amounting to a large

percentage of the premiums paid. For example, premiums on endowment policies, single premium life insurance policy, fixed payment life insurance policies, and other similar policies shall be considered salary. The payment of insurance premiums on ordinary or whole life policies referred to in the preceding sentence must be for the benefit of more than a small number of selected individuals.

For example: An employer having ten salaried employees takes out life insurance policies on each of such employees in favor of beneficiaries designated by them. The premiums paid for five of the employees are in each instance seven percent of the employees' annual salary (exclusive of insurance and pension benefits). As to the remaining five employees the premiums in each instance are five per cent of the employee's annual salary (exclusive of insurance and pension benefits). As to the first five employees, two per cent of the premiums in each instance would be considered as salary, whereas no part of the premiums will be considered as salary in the case of the second group of employees.

Premiums paid by an employer on policies of group life insurance without cash surrender value covering the lives of his employees, or on policies of group health or accident insurance, the beneficiaries of which are designated by such employees do not constitute salary (regardless of the amount of salary otherwise received annually by such employees).

Section 81.977m is amended as follows:

§ 81.977m *Amount of salary payment* (§ 1002.10).

The General Regulations provide that the Commissioner, except as otherwise provided in Executive Order 9299 of February 4, 1943, prescribing regulations and procedure with respect to wage and salary adjustments for employees subject to the Railway Labor Act shall have authority to determine, under regulations to be prescribed by the Commissioner with the approval of the Secretary of the Treasury, whether salary payments are made in contravention of the Act. The Commissioner's jurisdiction is confined to cases where the rate at which the salary, exclusive of bonuses and additional compensation and without regard to the contemplated adjustment, computed on an annual basis, is

(1) In excess of $5000.00 per annum, in the case of individuals employed in any capacity whatsoever; and

(2) $5000.00 or less per annum in the case of individuals (a) who are employed in bona fide executive, administrative, or professional capacities and (b) who in their relations with their employer are not represented by duly recognized or certified labor organizations and (c) whose services are not within the meaning of "agricultural labor" as defined in paragraph (1) of § 4001.1 of the General Regulations.

Other salary payments are subject either to the jurisdiction of the Board or the War Food Administrator, as prescribed in the General Regulations. If, for example, the rate of salary, exclusive of bonuses and additional compensation, is to be increased from $4500.00 per annum to $5200.00 per annum (and subdivision (2) is inapplicable), approval of such increase, if required, must be obtained from the Board.

In § 81.977n paragraph (c) is deleted.

§ 81.977n *Conclusiveness of determination.* (§ 1002.11). * * *

(c) [Deleted].

That part of § 81.977p preceding paragraph (a) is amended as follows:

§ 81.977p *Commissioner's approval required.* (§ 1002.13). Section 1 of the Act provides in effect that salaries, so far as practicable, shall be stabilized at the levels which existed on September 15, 1942. In the case of a salary rate of $5,000 or less per annum existing on October 27, 1942, or established thereafter in compliance with these regulations, and in the case of a salary rate of more than $5,000 per annum existing on October 3, 1942, or established thereafter in compliance with these regulations, no increase shall be made by the employer, except as provided in § 1002.14, without prior approval of such increase by the Commissioner. Any salary increase made before the required approval of the Commissioner is obtained is from the date of such increase in contravention of the Act. (See §§ 1002.28 and 1002.29 for the consequences of a salary payment made in contravention of the Act.) The Commissioner may, however, approve an increase in salary rate to be effective as of the date of the application for approval.

The burden of justifying an increase in salary rate shall in every instance be upon the employer seeking to make such increase. Increases in salary rates will not be approved except in the following cases:

(1) Such increases as are clearly necessary to correct substandards of living.

(2) Such adjustments as may be deemed appropriate by the Commissioner and have not heretofore been made to compensate in accordance with the Little Steel formula as heretofore defined by the Board, for the rise in the cost of living between January 1, 1941, and May 1, 1942.

(3) Salary revisions clearly necessary to adjust salaries up to the minimum of the tested and growing rates paid for the same work in the same or most nearly comparable plants or establishments in the same labor market, except in rare and unusual cases, in which the critical needs of war production require the setting of a salary at some point above the minimum of the going salary bracket.

(4) Reasonable adjustments may be made with the approval of the Commissioner in case of promotions, reclassifications, merit increases, incentive wages, or the like, provided that such adjustments do not increase the level of production cost appreciably or furnish the basis either to increase prices or to resist otherwise justifiable reduction in prices.

In connection with the approval of wage and salary adjustments necessary to eliminate substandards of living or to give effect to the Little Steel formula or in connection with the adoption of a longer work week, salary adjustments may be approved for workers in immediately interrelated job classifications to the extent required to keep the minimum differentials between immediately interrelated job classifications necessary for the maintenance of production efficiency. Such adjustments are to be tapered off rigorously in application to higher job classifications so as to apply only to the extent necessary for productive efficiency in the interrelated job classifications.

A promise made by an employer to his employees prior to October 3, 1942, that salaries would be increased in the future is generally to be ignored in determining whether an increase after that date should be approved. The same rule is applicable with respect to a promise made by an employer prior to October 27, 1942, in the case of employees whose salary rates are $5,000.00 or less per annum.

An employer who has established a new job classification, or who has begun business, after October 3, 1942, must obtain approval of the Commissioner for the payment of salaries for such job classification or in such new business: *Provided, however,* That if the salary rates in question are not in excess of the minimum of those prevailing for similar job classifications within his own organization or if no such rates are available, then within the local area on September 15, 1942, the approval of the Commissioner is not required. An increase in a salary rate for a job classification established after October 3, 1942, shall be subject to the limitations provided in this subpart.

A mere change in the name, organization, or financial structure of an employer, whether such employer be an individual, partnership or corporation, will not in itself be sufficient for a finding that, for the purpose of these regulations, a new business has been begun or new job classification established after such change.

Any change in a salary rate, regardless of its effective date, which results from an award or decision of an arbitrator or referee made after October 3, 1942, in the case of salaries of more than $5,000 per annum, and after October 27, 1942 in the case of salaries of $5,000 or less per annum, is subject to the provisions of these regulations notwithstanding that the agreement or order for arbitration or reference was made on or before October 3, 1942 or October 27, 1942, as the case may be.

Unless otherwise expressly exempted, any change in a salary rate, provided for in any agreement existing as of October 3, 1942 in the case of salaries of more than $5,000 per annum, or as of October 27, 1942 in the case of salaries of $5,000 or less per annum, which is to take effect at some future date or on the happening of some future event, is subject to the provisions of these regulations regardless of when the agreement was made.

Payment for overtime will constitute an increase in salary rate and thus will require the approval of the Commissioner, unless the customary practice of the employer has been to pay for overtime and the rate and scheduled number of overtime hours of work have not been changed. Pay in lieu of vacations to employees receiving in excess of $7,500.00 a year does not require the prior approval of the Commissioner if computed in accordance with a vacation policy established prior to October 3, 1942, and if computed at not in excess of the straight time rate for the normal (unextended) work week.

Except as may be otherwise provided from time to time by the Commissioner, an application for the approval of a salary increase shall be filed by the employer with the regional office of the Salary Stabilization Unit of the Bureau of Internal Revenue in whose territorial jurisdiction the main office or principal place of business of the employer is located. Such application shall be filed on forms prescribed by the Commissioner and shall contain such information as may be required by the Commissioner.

* * * * *

In § 81.977q that part preceding paragraph (a) is amended and paragraph (c) is added.

§ 81.977q *Commissioner's approval not required* (§ 1002.14). The Commissioner's approval is not required where a reasonable increase in the rate at which the salary, exclusive of bonuses and additional compensation, is computed, is made both in accordance with the terms of a salary agreement or salary rate schedule in effect on October 3, 1942, or approved thereafter by the Commissioner, and is a result of:

(1) Individual promotions or reclassifications,

(2) Individual merit increases within established salary rate ranges.

(3) Operation of an established plan of salary increases based on length of service within established salary rate ranges.

(4) Increased productivity under incentive plans,

(5) Operation of a trainee system, or

(6) Such other reasons or circumstances as may be prescribed in rulings or regulations promulgated by the Commissioner from time to time.

For purposes of this section, the term "salary plan" or "salary rate schedule" may include a salary policy in effect on October 3, 1942, even though not evidenced by written contracts or written rate schedules. For example, a salary policy may be determined from previous payroll records or other payroll data. The existence of such policy, however, must be established to the satisfaction of the Commissioner, and the burden of proof rests upon the employer. In such cases, the employer in advance of making an increase in salary rate may reduce the salary policy to writing and secure approval thereof by the Commissioner. Top salary rate of a given job classification shall not be increased, without approval, to a salary in excess of a maximum salary paid for the given job classification for a period of years prior to October 3, 1942. Promotions and reclassifications for the purposes of this section comprehend only cases involving materially increased responsibilities or a substantial change in the nature of the work performed. Merit increases within a given salary range and increases based upon length of service shall not exceed in frequency or in maximum amount the frequency or maximum amount given in such positions in that salary range during normal periods as established by the employer's records or for a period of years to October 3, 1942, and there shall be no substantial increase in the average salary in any given salary range.

Except as provided in the following sentence, a bonus or other form of additional compensation which does not exceed in amount the bonus or other additional compensation to such employee for the last bonus year ending before October 3, 1942, does not require approval by the Commissioner, provided the employee has not been allowed or received an adjustment in his salary rate since October 3, 1942, or October 27, 1942, as the case may be. A bonus regularly paid based upon a fixed percentage of salary (exclusive of bonuses and additional compensation) where the percentage has not been changed does not require approval by the Commissioner even though the amount may be increased due to an increase in salary (exclusive of bonuses and additional compensation) authorized under these regulations. Any other bonus or other form of additional compensation requires approval by the Commissioner.

The term "last bonus year" ending before October 3, 1942, means the employer's last accounting year, calendar or fiscal, ending prior to that date. For example, an employer operating on a fiscal year ending on August 31, would have as his last bonus year prior to October 3, 1942, the fiscal year ending August 31, 1942.

With respect to the limitation on the effect of increases made under this section, see § 1002.14 (a).

The provisions of this section may be illustrated as follows: * * *

(c) *Limitation on effect of increase* (§ 1002.14 (a)). No increase in salary rate, whether made with the approval of the Commissioner or not requiring his approval, shall increase the level of production costs appreciably or furnish the basis either to increase prices or to resist otherwise justifiable reductions in prices or furnish the basis for further wage or salary increases.

The final paragraph under § 81.977r is amended as follows:

§ 81.977r *Salaries under $5,000* (§ 1002.15). * * *.

A disparity between salaries paid by a particular employer and those paid by employers generally in the local area does not necessarily constitute justification for decrease in salary rates paid by such employer. The words "for any particular work" in the first sentence of this section refers to the particular work of the particular employee and not to a particular type of work.

Section 81.977t is amended as follows:

§ 81.977t *State and local employees* (§ 1002.17). An adjustment in salaries (not fixed by statute, see § 1002.32) may be made by a State, or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing in all cases where such adjustment is of the type referred to in § 1002.13. Any such adjustment will be deemed to have received the approval of the Commissioner.

In § 81.977ee paragraph (d) is deleted.

§ 81.977ee *Amounts disregarded* (§ 1002.28). * * *.

(d) [Deleted.]

Section 81.977gg is amended to read as follows:

§ 81.977gg *Salary allowances under Code* (§ 1002.30). Under section 23 (a) of the Code reasonable allowances for salaries are allowed as deductions in computing net income. The tests which determine whether an allowance for salaries paid or accrued is reasonable within the meaning of section 23 (a) of the Code are in nowise suspended by any provision of these regulations. An employer may be exempt from the operation of these regulations yet be denied deductions for purposes of section 23 (a) of the Code with respect to the salaries paid or accrued by him.

Section 81.977hh is amended as follows:

§ 81.977hh *Exempt employers* (§ 1002.31). The provisions of these regulations shall not apply in the case of an employer who employs eight or less individuals in a single business. An employer is subject to the provisions of these regulations if at the time a salary increase is to take effect he has in his employ more than eight individuals in a single business. It is not necessary that each employee be paid a salary provided all the individuals employed receive compensation for their personal services. If it is subsequently determined that the number of employees has been temporarily reduced by the employer, or that the employer has utilized any other improper device, for the sole purpose of claiming the exemption provided in the General Regulations and these regulations, then such exemption shall be deemed to have been improperly obtained and of no force or effect.

An employer may be exempt under this section notwithstanding that shortly after the effective date of a salary increase he enlarges his personnel in good faith to more than eight employees. Any further adjustment in salary will then be subject to the provisions of these regulations.

Section 81.980c is amended as follows:

§ 81.980c *General Order No. 3.*

General Order No. 3. (a) The National War Labor Board hereby approves all increases in wage rates which were put into effect on or before Oct. 3, 1942. Such approval includes increases first reflected in a payroll subsequent to Oct. 3, 1942, if applicable to work done, and provided for by written agreement, or formally determined and communicated to the employees, on or before that date. An adjustment taking effect after Oct. 3, 1942, or, regardless of its effective date, resulting from the award or decision of an arbitrator or referee made after Oct. 3, 1942, is, however, subject to the approval of the Board, although the agreement providing therefor, or the order or agreement for arbitration or reference, may have been made prior to that date.

(b) All such increases shall be subject to the right of the Board to review and to order the discontinuance of further payment of all or part thereof.

In § 81.980n (b) an Engineer project is added in its proper sequence.

§ 81.980n *General Order No. 14.* * * *

(b) *Government-owned, privately-operated facilities.* * * *

Non-manual employees employed on the following fixed-fee Engineers projects are embraced within the delegation to the War Department Agency.

Engineers projects	*Nearest city*	*State*
* *	* *	*
Joyce Building	Columbus	Ohio
* *	* *	*

Section 81.993 is added as follows:

§ 81.993 *Requests for relaxation of State Labor legislation.* (a) In all cases in which manufacturers engaged in war production deem necessary to the achievement of full war production the relaxation of State labor statutes or administrative orders which are restricting or are allegedly restricting war production, the following procedure will be observed:

(1) The interested contractor will submit the initial request for such relaxation to the State Labor Commissioner or other State officials charged with the enforcement of labor legislation in the State or region where the plant of the manufacturer involved is located.

(2) In the event that the contractor's request for relaxation is denied, the technical service, Army Air Forces, or the service command, as the case may be, whichever has the operating responsibility for labor problems for said contractor, may assist the contractor by supporting the request for relaxation by direct representation to the appropriate State official.

(3) The labor branches of the service commands may be called upon to render staff assistance relative to the foregoing.

(4) If the desired relaxation has not been obtained after exhausting the above procedure, and the appropriate War Department agency continues to urge its necessity, the matter may be referred through channels to the Director, Industrial Personnel Division, Headquarters, Army Service Forces, Attention: Chief, Labor Branch. Such referrals should contain the following information:

(i) Provision or provisions of law the relaxation of which is required.

(ii) Extent of relaxation required.

(iii) Criticalness or relative scarcity of the material.

(iv) Circumstances necessitating the relaxation (such as, for example, a shortage in the local supply of skilled labor).

(v) Remedial action being taken by the manufacturer (such as, for example, training and up-grading).

(vi) Efforts previously made to obtain the relaxation.

(b) Requests for assistance in obtaining a relaxation will be refused in cases in which:

(1) The contractor has not already requested the proper State authorities for such relaxation.

(2) Such relaxation is clearly unnecessary to maintain full production.

(3) The granting thereof would result in a clearly excessive increase in hours of work, in an unreasonable curtailment of rest and lunch periods, or in an undesirable impairment of working conditions.

PLANT FACILITIES EXPANSIONS

In § 81.1006 paragraph (e) is amended as follows:

§ 81.1006 *Methods for providing new facilities.* * * *

(e) *Plan V: Government ownership; Supply contract*—(1) *Purpose.* For cases in which the contractor will acquire facilities (other than real estate and buildings) for the account of and to be paid for by the Government; facilities to be used by contractor to manufacture supplies under War Department supply contract; contractor responsible for return of facilities in good condition, except for reasonable wear and tear and loss due to stated perils. This type of government financing is provided for by the article entitled Government - Owned Facilities set forth in § 81.332.

(2) *Financing.* Government funds.

(3) *Title.* Vested in the Government, with option in contractor, in certain cases, to buy at cost less depreciation.

Paragraph (d) of § 81.1015 is amended as follows:

§ 81.1015 *Approval of contracts or agreements required in certain cases.* * * *

(d) All contracts containing provisions which are required to be submitted under the notes to § 81.332, and all the separate lease agreements referred to in § 83.723 (b).

[Procurement Reg. 16]

PART 81—PROCUREMENT AND DISPOSAL OF EQUIPMENT AND SUPPLIES

PRIORITIES

A new procurement regulation (Procurement Regulation No. 16) has been added, comprising the following §§ 81.1601 to 81.1699.

INTRODUCTION

Sec.
81.1601 General.
81.1602 War Production Board.
81.1603 Army and Navy Munitions Board.
81.1604 Scope.
81.1605 Clearance of instructions.
81.1606 Regulations relating to priorities.
81.1607 Compliance with regulations.
81.1608 Special priority procedures.

DEFINITIONS

81.1610 Definitions.

DETERMINATION OF PREFERENCE RATINGS

81.1611 Preference ratings as strategic decisions.
81.1612 Army and Navy Munitions Board Priorities Directive.
81.1613 Overall preference rating structure.
81.1614 Implementation of the ANMB Directive.
81.1615 Compliance.
81.1616 Preference rating structure.

USE OF PREFERENCE RATING CERTIFICATE, FORM PD-3A

Sec.
81.1620 Use of Form PD-3A.
81.1621 Cases where PD-3A is not applicable.
81.1622 Supplies of Form PD-3A.
81.1623 Copies of Form PD-3A.

PREPARATION OF PREFERENCE RATING CERTIFICATE, FORM PD-3A, FOR PRODUCTION CONTRACTS, SPOT PURCHASES, CONSTRUCTION PROJECTS, AND CAPITAL EQUIPMENT

81.1628 Preparation of Preference Rating Certificate, Form PD-3A, for Production Contracts, Spot Purchases, Construction Projects, and Capital Equipment.

RATING PRODUCTION CONTRACTS AND SPOT PURCHASES

81.1631 Definition.
81.1632 Application of ratings to production contracts and spot purchases.
81.1633 Preference ratings assigned to production contracts may not be extended to secure capital equipment.
81.1634 Indefinite contracts.

RATING CAPITAL EQUIPMENT AND MACHINE TOOLS

81.1635 General procedure.
81.1636 Use of Form PC-20.
81.1637 Procedures for securing approval.
81.1638 Validation of certificates.

RATING CONSTRUCTION PROJECTS

81.1639 General.
81.1640 Command construction.
81.1641 Other construction.
81.1642 Procedures for securing approval.

MAINTENANCE, REPAIR, AND OPERATING SUPPLIES

81.1648 General procedure.
81.1649 MRO procurement of private contractors.
81.1650 MRO procurement of services.

PREFERENCE RATINGS FOR CONTRACTS BY OR FOR FOREIGN GOVERNMENTS

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EXTENSION OF PREFERENCE RATINGS

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81.1657 To what ratings may be extended.
81.1658 Combining ratings.
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81.1660 Copies of preference rating extensions.

RERATING PROCEDURES

81.1665 General.
81.1666 Rerating of prime contracts.
81.1667 Rerating of subcontracts.
81.1668 Rerating of authorized schedules under CMP allotments.
81.1669 Extensions of reratings.
81.1670 General provisions.

SPECIAL RATING PROCEDURE AND SCHEDULING ASSISTANCE

81.1675 Definition.
81.1676 Considerations preliminary to applying for a special rating.
81.1677 Procedure for applying for a special rating.
81.1678 Advice as to action taken on application.
81.1679 Requests for special scheduling.

RELATION OF PRIORITIES TO MATERIAL ALLOCATION SYSTEMS

81.1685 Systems for controlling scarce materials.
81.1686 Relationship for ratings to material control systems.
81.1687 Optional procedure under Priorities Regulation No. 11-B.

SUMMARY OF WPB ORDERS

81.1690 Summary of WPB orders.
81.1691 Appeals from L, M, and R Orders.
81.1692 Index to orders.

PREFERENCE RATINGS FOR PROCUREMENT FROM UNIT FUNDS

Sec.
81.1695 Authority delegated to Special Services Division.
81.1696 Procedure.
81.1697 Accomplishing the PD-3A Certificate and assigning the applicable rating.
81.1698 Out-of-Line rating.
81.1699 Issuance of instructions.

AUTHORITY: §§ 81.1601 to 81.1699, inclusive, issued under sec. 5a, National Defense Act, as amended, 41 Stat. 764, 54 Stat. 1225; 10 U.S.C. 1193-1195, and the First War Powers Act 1941, 55 Stat. 838, 50 U.S.C. Sup. 601-622.

INTRODUCTION

§ 81.1601 *General.* The priorities system is a vital control in war production. It is the means by which one program is preferred over another program when a conflict in delivery dates develops and the production of one item must be placed before that of another item. In this manner the more urgent need is given precedence over the lesser need.

§ 81.1602 *War Production Board.* Since priorities relate not only to military procurement, but also to indirect military and civilian procurement, the War Production Board has been given the primary authority to prescribe and administer the priorities system and the distribution of materials among competing claimants.

§ 81.1603 *Army and Navy Munitions Board.* The Army and Navy Munitions Board (ANMB), under delegated authority from the War Production Board, coordinates the extension of preference ratings by the Army, Navy, certain government agencies, and foreign governments.

§ 81.1604 *Scope of Procurement Regulation 16* (*§§ 81.1601-81.1699*). (a) These instructions do not affect interpretations of the ANMB Priorities Directive or authorizations granted thereunder. They deal principally with procedural phases of priorities and are offered as a guide to military personnel charged with the responsibility of applying the priorities system to military procurement. Since any system of this type must have flexibility, instructions such as these cannot remain static. Therefore, provision is made for the insertion of changes, as they occur, so that the instructions will at all times correctly reflect current conditions.

(b) These instructions replace and supersede Priorities Instructions dated 18 February 1942, and Priority-Allocation Instructions numbered from 1 to 11 inclusive, all of which should be destroyed, but they do not invalidate internal operating procedures and interpretations established by the individual military agencies which are not in conflict with these instructions. Priority-Allocation Instructions No. 12, (Post Exchanges), however, remains in full force and effect.

§ 81.1605 *Clearance of instructions.* It is to be especially noted that letters of interpretation or instruction concerning priorities procedures, for general distribution within technical services, must be submitted to the Production Division, Headquarters, Army Service Forces, for approval. This is necessary in order to

avoid any interpretations or instructions which are not in keeping with basic priorities procedures and which tend to depart from uniformity.

§ 81.1606 *Regulations relating to priorities.* Every officer responsible for priorities should study carefully this Regulation and the basic principles of the priorities system as set forth in:

WPB Priorities Regulation No. 1.
WPB Priorities Regulation No. 3.
WPB Priorities Regulation No. 12
WPB Priorities Regulation No. 18.
CMP Regulation No. 3.
CMP Regulation No. 5.
WPB Directive No. 23.

Copies of the above may be obtained from a War Production Board office.

§ 81.1607 *Compliance with regulations.* The success of any plan or system is dependent upon the extent of cooperation of the various units operating under it. Therefore, it is the policy of the Army to require strict adherence to all regulations, orders, directives, and instructions issued in connection with priorities. Every authenticating official who knowingly issues or causes to be issued a preference rating certificate which is found to be improper or unauthorized, either as to form or substance, will be held strictly accountable for his actions, and the certificate will be subject to revocation.

§ 81.1608 *Special priority procedures.* Special procedures have been established for the assignment of preference ratings for procurement by and for Post Exchanges and Army Specialized Training Program.

DEFINITIONS

§ 81.1610 *Definitions.* For the purpose of Procurement Regulation 16 definitions set forth in the succeeding parapraphs are established:

Priorities directive. The ANMB Priorities Directive is a determination of relative urgency of military programs and projects.

"Priority" is the degree of precedence given to an order or contract to obtain completion, delivery, or performance on a particular date at the expense, if necessary, of competing contracts or orders of lower priority held by the same supplier of facility.

"Preference rating" is a symbol (AA–1, AA–2, etc.) assigned to a contract, order, award, or letter of intent, to establish the degree of precedence.

"Original preference rating" is the rating assigned by a certificate or WPB Preference Rating Order to delivery of an end item, construction of a project, or use of a facility.

"Extended preference rating" is the rating applied or used by a prime contractor or subcontractor for delivery of components or materials.

"Preference rating certificate" is the instrument by which preference ratings are assigned.

"Emergency or special rating" is a rating higher than that authorized by the ANMB Priorities Directive or WPB orders, and is granted only in special cases of utmost urgency by the ANMB or WPB.

"Prime contract" is a contract or order placed by the Army or Navy, or by an approved foreign government, directly with an individual, firm, or corporation to supply military or naval material, equipment, or facilities.

"Prime contractor" is the individual, firm or corporation with whom the Army or Navy, or an approved foreign government, has placed a prime contract.

"Subcontract" is a contract or order placed with a supplier by an individual, firm or corporation holding a prime contract or another subcontract for material or services to be incorporated in a prime contract.

"Subcontractor" is the individual, firm, or corporation with whom a prime contractor, or another subcontractor, has placed a purchase order or subcontract for materials or services to be incorporated in a prime contract.

"Authentication" is the execution, evidenced by the signature of the duly authorized official of the contractor, of the authentication statement on Form PD–3A.

"Countersignature" is the validating of a PD–3A preference rating certificate, by the signature of a duly authorized U. S. Government Official.

"Certification" is a representation by the holder of a preference rating, endorsed upon his purchase order, by means of which he extends the rating to his supplier in accordance with the terms of Priorities and CMP Regulations.

"Material" means any commodity, equipment, accessory, part, component, assembly, or product of any kind.

"Material physically incorporated" includes all commodities, accessories, parts and assemblies, or other products which are physically or chemically incorporated in the end item. Excluded are facilities, machine tools, capital equipment and repair, maintenance, and operating supplies.

"Machine tool" means any non-portable power driven, metal working machine listed in Exhibit A of War Production Board Order E–1–b, with certain exclusions set forth in that order.

"Productive capital equipment" is capital equipment (excluding machine tools) which physically processes or otherwise acts upon or handles materials or items physically incorporated in end products, or which is necessary to operate such equipment, such as cranes, furnaces, chemical tanks, turbines, generators, and machinery.

"Construction capital equipment" is equipment which is physically used in construction of projects or which otherwise acts upon or handles material or items to be physically incorporated in a construction project; such as power shovels and concrete mixers.

"Non-productive or administrative capital equipment" is capital equipment which is necessary for the operation of the administrative side of a manufacturing plant, military installation, or for a construction project, such as office equipment, plant protective equipment, and equipment for the health and well being of employees.

"Expansion" is the creation of new facility capacity by addition to existing equipment of one or more units or the installation of equipment where none existed before.

"Replacement" is a necessary installation of a similar unit of equipment of similar size to take the place of a unit previously installed and which has become useless through wear and tear or accident and which cannot be repaired.

"Training aid or device" is defined as equipment used exclusively and directly for the training of military personnel. This does not include housing, messing, administrative, or other similar operating equipment or supplies or items of individual issue or use. It includes such items as link trainers, bombing trainers, single items of mechanical equipment (or parts thereof) of ships, planes, and ordnance.

"Army, Technical Services, Services, or Military" as used herein, include in all cases the Technical Services, the Army Air Forces and the Service Commands. Attention is called to §§ 81.103 (d) and 81.103 (e) which are applicable to this Procurement Regulation No. 16.

DETERMINATION OF PREFERENCE RATINGS

§ 81.1611 *Preference ratings as strategic decisions.* The Joint Chiefs of Staff of the Army, Navy, and Air Forces periodically prepare a statement of the strategic urgencies of the various parts of the military program. Their decisions are based on their knowledge of the type of munitions needed for the various phases of the war. For example, weapons which can be used against the enemy are more urgent than construction projects in the continental United States.

§ 81.1612 *Army and Navy Munitions Board Priorities Directive.* The strategic decisions of the Joint Chiefs of Staff are converted into industrial preference ratings and are published as the Army and Navy Munitions Board Directive. This document becomes the basis of all preference ratings assigned by the Army, Navy, and agencies under Army and Navy Munitions Board priority jurisdiction. It is a basic instrument universally required for the operation of the military priorities system.

§ 81.1613 *Overall preference rating structure.* The ANMB Priorities Directive is incorporated into the general priorities structure established by the WPB. Consequently, ratings assigned on PD–3A certificates or military CMP allotment forms (where permitted) are directly related to preference ratings assigned under CMP and Priorities Regulations, on PD–1A Forms, and under "P", "L", "M", and "E" Orders.

§ 81.1614 *Implementation of the ANMB Directive.* (a) As the ANMB Priorities Directive is a broad policy document, it is necessary to issue detailed instructions to the Services responsible for procurement. Considerable flexibility is allowed the technical services in the implementation of the Priorities Directive. Separate instructions, approved by

the Production Division, Headquarters, Army Service Forces are issued from time to time by the respective services of the Army.

(b) In cases where quantitative limitations are imposed in the Priorities Directive, quarterly accounting is required. It is, therefore, customarily necessary for the offices in the field to report the dollar value of ratings assigned in the various preference rating groups under specific accounting instructions. Certain services which have programmed their preference ratings for procurement and have secured advance approval, have been relieved from accounting.

§ 81.1615 *Compliance.* (a) Since preference ratings are based on war strategy, it is imperative to comply strictly with the ratings provided in the Priorities Directive. Failure to comply may easily retard vitally important programs.

(b) Compliance is also important because an incorrect rating may be extended. Extensions average 10 per contract and consequently an incorrect rating may actually result in 11 incorrect ratings. Enforcing compliance with these Instructions and with the ANMB Priorities Directive is the responsibility of the chiefs of technical services. The WPB is responsible for enforcing compliance by industry, and military personnel should report violations to WPB field offices whenever discovered.

§ 81.1616 *Preference rating structure.* (a) The current ANMB Priorities Directive and WPB documents establish the relative urgencies among programs, schedules, profits, and items of procurement as outlined below:

AAA	AA-3
AA-1	AA-4
AA-2	AA-5
AA-2X	

(b) Special means of securing higher-than-routine ratings including AAA are explained in §§ 81.1675–81.1679 of this part, and application should be made through the responsible Service when such assistance is imperative.

USE OF PREFERENCE RATING CERTIFICATE, FORM PD–3A

§ 81.1620 *Use of Form PD–3A.* (a) WPB Form PD–3A is used for assigning preference ratings to "military" prime contracts and is issued exclusively by the military organizations.

(b) Form PD–3A also is used to assign preference ratings to military procurement by or for designated foreign governments both for purchases by the technical services and by the designated foreign governments.

(c) A private contractor's procurement of machine tools and all types of capital equipment may be rated by a PD–3A certificate if the equipment is necessary for the completion of a military prime contract or subcontract. However, unless military purposes will constitute the major use of the equipment, the contractor should apply for a rating to the WPB on a PD–1A or other appropriate form. The PD–1A certificate is the civilian counterpart of the PD–3A certificate.

(d) All correspondence dealing with Form PD–3A should contain reference to the serial number of the certificate and preference rating assigned, also the contract number or purchase order number, as well as the name of the service concerned.

§ 81.1621 *Cases where PD–3A is not applicable.* Where an item is covered by a WPB limitation order which specifically states that a special form (other than the PD–3A will be used) the appropriate WPB form should be completed. Before issuing a PD–3A certificate for capital equipment, it is the responsibility of the purchasing and contracting officer or countersigning official to ascertain whether or not the equipment being procured is subject to any of the "L" or "M" order provisions, also to determine whether or not a PD–3A certificate may be used. WPB orders are described in §§ 81.1690–81.1692. A list of WPB Orders and Forms is available in a printed publication entitled "Products and Priorities" which may be obtained from the War Production Board, Publications Section, Washington, D. C., and which is published monthly.

§ 81.1622 *Supplies of Form PD–3A.* Supplies of Form PD–3A should be obtained from the nearest WPB Regional or District Office.

§ 81.1623 *Copies of Form PD–3A.* The countersigning officer's copy of Form PD–3A is considered the official file copy and must be retained for six months after the completion of the contract covered. The copy marked for the Army and Navy Munitions Board may be destroyed and the War Production Board copy is required only for certificates requiring approval under Directive No. 23, explained in §§ 81.1635–81.1638 of this Procurement Regulation No. 16. Copies designated for the chief of service should be promptly dispatched.

PREPARATION OF PREFERENCE RATING CERTIFICATE, FORM PD–3A, FOR PRODUCTION CONTRACTS, SPOT PURCHASES, CONSTRUCTION PROJECTS, AND CAPITAL EQUIPMENT

§ 81.1628 *Preparation of Preference Rating Certificate, Form PD–3A, for production contracts, spot purchases, construction projects, and capital equipment.* The various sections of the PD–3A certificate should be completed as follows:

(a) *Government Contract No.* The complete number of the contract or purchase order for the items covered by the certificate should be given in this space. Orders placed under Treasury Procurement Schedules must include not only the order number, but the number of the TPS contract as well. Where the PD–3A is issued to cover items in a "Letter of Intent", the date of such letter, and adequate identification symbol of such letter, shall be placed in this section. If the space provided is not sufficient for giving information about the "Letter of Intent", a footnote should be indicated and the complete information added at the bottom of the certificate.

(b) *Issued to.* The name of the "prime contractor" with whom the Army or Navy contract was placed is inserted here. When a PD–3A is issued for capital equipment being purchased by a military prime or subcontractor the name of the purchaser of the equipment is shown.

(c) *Address.* The address must be that one of the company where the PD–3A Form will be filed and where it can be inspected, if known, otherwise the principal office of the company.

(d) *Government agency placing contract.* This section must show the name and address of the Technical Service which issued the related prime contract, purchase order, or "Letter of Intent."

(e) *Required delivery date.* The required delivery date must be shown as indicated by the contract involved. The delivery date must be a date subsequent to the date the preference rating certificate is issued. A preference rating certificate which does not show an actual required delivery date is not valid and shall not be honored. Such terms as "at once," "as soon as possible," "immediately," etc., are not adequate. A firm shall not accept as valid a certificate which does not carry a specific required delivery date.

(f) *Quantity each shipment; dollar value each shipment.* The quantity and dollar value of each shipment required by the contract should be shown in sufficient detail to provide proper control.

(g) *Description.* (1) A sufficient description of the items called for in the prime contract should be made to identify the type of material being procured or service to be performed. When the certificate assigns a rating to the construction project it should be clearly described, and the machine tools and capital equipment to be installed should be itemized wherever possible. A contractor is authorized to extend a preference rating covering a construction project only for construction capital equipment specifically listed on the PD–3A certificate or on purchase orders issued subsequently when duly approved.

(2) Wherever the contract is a secret or confidential document and the inclusion of such information in the PD–3A certificate can be considered as divulging secret or confidential information, the term, "Special", should be used in the columns calling for quantity, value, and description in lieu of such information. This procedure will make unnecessary marking the certificate "Secret" or "Confidential" and will eliminate special handling and safekeeping. However, it is considered that in most instances the secret or confidential nature of a contract is in the specifications of the items called for and not in the fact that any one firm is manufacturing any specified quantity of a particular item for any particular delivery. Since the preference rating certificate will be the property only of government officials and the prime contractor, it is felt that the above procedure is adequate in most cases.

(h) *Authentication.* The authentication is designed to make Form PD–3A applicable to authorized purchases of machine tools and capital equipment, in addition to its primary purpose of rating a prime contract. When used in connection with a prime contract, this certification merely states that the information shown on the PD–3A Form is correct as it relates to the prime contract which it covers. The issuing Government Official should countersign the certificate and forward the original to the contractor except in the case of machine tools and capital equipment. The contractor, by executing the authentication, will indicate his acceptance of the rating assigned before he commences extension of the rating covered by the certificate. Only the original copy of the certificate need be manually signed. The copies should carry the typed or stamped name and address of the Government official and the date on which the countersignature was made.

(i) *Preference rating.* The issuing Government Official will indicate herein the preference rating applicable to the contract as determined by the current Priorities Directive.

(j) *ANMB code or authority.* This section should make reference to the specific instrument authorizing the rating being assigned, if covered by special authority.

(k) *Urgency standing No.* Where the certificate covers machine tools, the applicable urgency standing number, if any, should be stated.

RATING PRODUCTION CONTRACTS AND SPOT PURCHASES

§ 81.1631 *Definition.* All contracts which are not specifically covered in priorities instructions on: construction; capital equipment and machine tools; maintenance, repair, and operating supplies; are classified for priority purposes as production contracts or spot purchases.

§ 81.1632 *Application of ratings to production contracts and spot purchases.* Ratings are applied to production contracts and spot purchasers in the following ways:

(a) CMP "A" products may be rated on PD–3A certificates or on CPM allotment forms. The rating is applicable to the authorized production schedule and may be used by the contractor to secure materials (except controlled materials) and "P" products physically incorporated in the end item and necessary to execute the authorized production.

(b) CMP "B" products and all other products except "A" products, and noncontrolled materials, are rated on PD–3A certificates. Ratings assigned to nonclassified products may be used by the contractor to secure materials and products physically incorporated in the end item and necessary to carry out the production required by the contract except that manufacturers operating under Priorities Regulation 11–B may only extend the rating received from the War Production Board. A "B" product producer must extend the ratings assigned on the allotment form by which he receives materials and may not extend his customer's rating.

§ 81.1633 Preference ratings assigned to production contracts may not be extended to secure capital equipment.

§ 81.1634 *Indefinite contracts.* Since Priorities Regulation No. 1 states that preference ratings may be assigned only to contracts bearing definite delivery dates preference ratings may not be assigned to long term contracts issued by the Army which are indeterminate as to amount or estimated as to delivery and under which deliveries are made subject to purchase orders issued subsequently by the using activity. Preference rating certificates should be issued by the ordering officer when placing specific amounts under such contracts. In the event that this restriction results or threatens to result in undue delay in performance of a contract, application for special assistance may be made to the Production Division, Headquarters, Army Services Forces, through the chief of the technical service covered.

RATING CAPITAL EQUIPMENT AND MACHINE TOOLS

§ 81.1635 *General procedure.* Army Procurement Officers are responsible for assigning preference ratings to capital equipment and machine tools purchased by the Services or by military contractors. Current military policies require careful consideration of each equipment purchase, and officers are responsible for determining that capital equipment is actually necessary and that other facilities are not available. In addition, War Production Board Directive No. 23 requires approval by WPB field offices of priority actions involving capital equipment and machine tools with specific exceptions listed below:

(a) Where the capital equipment or machine tools are to be incorporated in command construction, as defined in War Production Board Directive No. 23. This exception is limited to equipment and tools for incorporation at the time of construction and does not include subsequent replacements, repairs, or additional equipment for command construction.

(b) Where the total value of the items rated by the instrument does not exceed $500.

(c) Where the instrument is countersigned outside the forty-eight states, District of Columbia and the Dominion of Canada.

(d) In the case of emergency purchases under the circumstances specified in Directive No. 23, paragraph (d) (3) of this section.

(e) Where the equipment or tools are for use on board ship, including floating dry docks, or for use outside the forty-eight states, and the District of Columbia for military purposes. The term "Military purposes" includes all equipment or tools furnished to military organizations for use by military personnel of any nation.

(f) Where the capital equipment is for military operations. This would include all organizational and operational equipment for use in military establishments or by military personnel. It does not include machine tools, except machine tools to be installed in mobile equipment.

(g) Administrative capital equipment.

(h) Other cases excepted by the War Production Board. This exception may be used to cover purchases classified for purposes of military security.

§ 81.1636 *Use of Form PC–20.* Where WPB approval is required, the original and three (3) copies of Form PD–3A and one copy of PC–20 for each specific type of Capital Equipment or Machine Tool will be forwarded to the WPB Field Office. Form PC–20 is not required for administrative capital equipment nor where productive equipment is to be incorporated in a project which has been approved by War Production Board or the Army on a PD–3A or WPB–617 Form on which the equipment involved was specifically listed.

§ 81.1637 *Procedures for securing approval.* Various procedures are in operation for the review and approval of applications for assigning preference ratings to capital equipment and machine tools. Since these procedures are integrated with the administrative controls of the services, special instructions will apply to the routing, and to the military and WPB approval arrangements.

§ 81.1638 *Validation of certificates.* On all preference rating certificates coming within the scope of Directive No. 23, the statement, "Approved for Issuance," signed by the appropriate WPB official, must appear. Or, where such approval statement does not appear, the following statement may be placed on the instrument by the Army representative; "Under the terms of Directive 23, this instrument is valid without WPB approval indorsement." Cases where the approval of the War Production Board need not appear on the document include those cases covered by the specified exceptions, those cases where WPB is limited to, but has failed to take action within ten days, and those cases where the WPB has approved the transaction on a document other than the original. These provisions are applicable where contracts or purchase orders bearing a delegation of authority indorsement are used in lieu of PD–3A certificates.

RATING CONSTRUCTION PROJECTS

§ 81.1639 *General.* War Production Board Directive No. 23 requires that construction projects, except command construction and certain specified exceptions, may be rated only by the War Production Board. Command construction may be rated on Form PD–3A Preference Rating Certificates by Army contracting officers.

§ 81.1640 *Command construction.* Command construction may be rated on PD–3A certificates by the Army contracting and procurement officers in the field. These certificates do not require the approval of the Army and Navy Munitions Board or of the War Production Board.

(a) Command construction, as defined in Directive No. 23, consists of projects

ordered built by either the Chief of Staff, U. S. Army, or the Chief of Naval Operations, U. S. Navy, viz.: air fields; military housing; alien housing; facilities for the repair of finished items of munitions; overseas or theatre of operations construction; seacoast fortifications; ports and depots; camouflage and other passive defense projects (whether or not owned and operated by the Army or Navy); emergency flood control projects having a value of less than $100,000; military hospitals; maneuver, training and staging areas and proving grounds.

§ 81.1641 *Other construction.* (a) In addition to using PD–3A certificates for command construction, the Corps of Engineers may issue PD–3A certificates, under delegated authority, for all construction supervised by the Corps of Engineers which is owned, leased, or operated by the War Department.

(b) Construction other than that included in the above, may be assigned preference ratings only by the War Production Board. Applications for preference ratings should be submitted on Form WPB–617. If the application covers a non-industrial project of less than $10,000 it may be rated by a War Production Board field office.

(c) Application for amendments not exceeding $10,000 to outstanding P–19–h certificates that were issued by the Army and Navy Munitions Board, will be processed by the Army and Navy Munitions Board. Applications on Form PD–200b (WPB–1548) for such amendments will not be submitted to the War Production Board, but will be submitted through military channels to the Army and Navy Munitions Board.

(d) A PD–3A certificate for command construction or a WPB–617 Form for other construction projects, may include the capital equipment and machine tools for the project and the rating may be extended to such tools or equipment where they are specifically listed on the form. The urgency standing number of all machine tools so included should be indicated where applicable.

(e) Applications for preference ratings for construction projects must be prepared in accordance with the requirements of the ANMB List of Prohibited Items for Construction dated 27 May 1943.

§ 81.1642 *Procedures for securing approval.* Various procedures are in operation for the review and approval of applications assigning preference ratings to construction projects. Since these procedures are integrated with the administrative controls of the services, special instructions issued by the service concerned will apply to the routing, and to the military and WPB approval arrangements.

MAINTENANCE, REPAIR, AND OPERATING SUPPLIES

§ 81.1648 *General procedure.* The procurement of maintenance, repair, and operating supplies, hereafter referred to as MRO, by the services and by private contractors is, in most instances, governed by the provisions of CMP Regulation No. 5. That Regulation establishes schedules of preference ratings for MRO, the manner of their application, and quantitative limitations thereon. CMP Regulation No. 5 should be carefully studied.

§ 81.1649 *MRO procurement of private contractors.* All private contractors, whether they are prime contractors or subcontractors, are governed exclusively by CMP Regulation No. 5 in their procurement of MRO. A service may not issue a preference rating certificate to a private contractor for MRO of the private contractor.

§ 81.1650 *MRO procurement of services.* (a) The services may procure their MRO under the provisions of CMP Regulation No. 5, except in the following cases:

(1) MRO for export.

(2) MRO required by a service as a regular procurement item covered by a specific program. This includes all items in the Army Supply Program.

(3) MRO procurement of items appearing in List B of Priorities Regulation No. 3.

(b) CMP Regulation No. 5 is not applicable in the four cases listed above. MRO procurement in those cases is rated by the issuance of a PD–3A preference rating certificate or, if A Products are involved, by a CMPL 150 Form with or without a PD–3A preference rating certificate. The preference rating assigned is derived from the current ANMB Priorities Directive. The quantity limitations of CMP Regulation No. 5 are not applicable and the procedure prescribed therein is not permissible.

PREFERENCE RATINGS FOR CONTRACTS BY OR FOR FOREIGN GOVERNMENTS

§ 81.1652 *Cash purchases.* The Army and Navy Munitions Board is responsible for assigning priority ratings on preference rating certificate, Form PD–3A, to prime contracts of foreign governments covering items being procured by cash purchase for the direct use of the military forces of such foreign governments.

§ 81.1653 *International aid requisitions.* The technical services are responsible for assigning ratings on preference rating certificate, Form PD–3A, to prime contracts placed by the Technical Services as procuring agencies pursuant to approved International Aid Requisitions filed with the War Department.

EXTENSION OF PREFERENCE RATINGS

§ 81.1656 *Procedure.* (a) Preference ratings, irrespective of the manner of their original acquisition or assignment, are applied or extended by indorsing on a purchase order an appropriate certification.

(b) Where, under the provisions of CMP Regulation No. 3 or CMP Regulation No. 1, the purchase order must bear an allotment number or symbol, the certification prescribed in CMP Regulation No. 3 will be used. In all other cases, except those noted in the following paragraph, the certification set forth in Priorities Regulation No. 3 will be used. CMP Regulation No. 7 provides a standard certification which may be used in place of either of the two certifications mentioned above.

(c) Certain orders of the War Production Board in the "P" series require that a special certification or preference rating be used with respect to the extension of preference ratings to specified products or materials. Also Priorities Regulation No. 9 prescribes special requirements with respect to the application of preference ratings to certain items for export. The provisions of these orders must be complied with.

§ 81.1657 *To what ratings may be extended.* (a) Ratings may be extended to: (1) Materials and parts which will be physically incorporated into material to be delivered, including commodities which are normally consumed or converted into scrap or by-products in the course of processing. (2) Material and parts necessary to restore inventory to a practical working minimum level to the extent that deliveries from it pursuant to the rating have been made.

(b) Ratings may also be extended for the use of facilities or for repair work under the circumstances prescribed in Priorities Regulations No. 3.

§ 81.1658 *Combining ratings.* (a) Any person who has received the same preference rating by different preference rating certificates or orders, or extensions, may combine these ratings and extend them to a single delivery on a single properly certified purchase order. Preference ratings of different grades whether received by the same or different preference rating certificates or orders, or extensions, may also be extended on a single purchase order. The amount of material to which each rating is extended must be shown separately or if the material involved is of such type that the supplier can determine the effect of the extension of the rating on his own production and delivery schedules, the amount may be shown on a percentage basis.

(b) Each rating extended in combination may apply to no greater quantity of materials than if the ratings were extended by a separate instrument. However, ratings of different grades may be combined and the rating of the lowest grade extended to the total.

§ 81.1659 *B Product producers.* B Product producers may not extend the ratings received with orders but must use the ratings assigned on their allotment forms.

§ 81.1660 *Copies of preference rating extensions.* Copies of purchase orders used to extend preference ratings need not be sent to the Army offices involved nor to the War Production Board.

RERATING PROCEDURES

§ 81.1665 *General.* (a) Priorities Regulation No. 12 covers the rerating of contracts and purchase orders. Reratings may be made upward or downward and include any change from one category to another. For example, a con-

tract changed from AA-2X to AA-1, or from AA-1 to AA-2X comes within the scope of this regulation. Extensions may be made of upward reratings for delivery of material which will itself be delivered on a rerated delivery or physically incorporated into material to be so delivered, including material consumed or converted into scrap or by-products as the result of processing. Also reratings may be extended for material necessary to bring inventory up to a practicable working minimum whenever, as a result of delivery on the rerating, the inventory has been impaired below that minimum.

(b) When contracts are rerated downward, extensions of the new rating must be made to all uncompleted deliveries under the original contract. This must be done within five business days following the date the downward rerating is received.

§ 81.1666 *Rerating of prime contracts.* Contracting procurement and inspecting officials may rerate prime contracts for supply items and construction projects only upon specific instructions from the office of the chief of the technical service. Form PDL-2102 shall be used exclusively for this purpose, including prime contracts under the jurisdiction of the Army Air Forces. "A" products may be rerated on allotment forms.

§ 81.1667 *Rerating of subcontracts.* (a) Prime contractors and subcontractors may rerate subcontracts or portions thereof either by Form PD-4Y, or by furnishing the supplier with a duplicate purchase order carrying the appropriate indorsement for the new rating as provided in Priorities Regulation No. 3, or by letter or telegram, listing the specific purchase orders, original ratings and new ratings. If the latter course is followed, such letter or telegram should be filed with the original purchase orders. The rerating shall cover only the undelivered quantities of materials specifically raised to new levels by means of the rerating certificates PDL-2102, PD-4Y, telegram, letter, or new purchase order received by the prime or subcontractor.

(b) PD-4Y is reproducible and samples may be obtained at WPB filed office. No duplicate copies of PD-4Y certificates issued by contractors are required by WPB.

§ 81.1668 *Rerating of authorized schedules under CMP allotments.* As to those "A" products where no allotment is being made at the time, the rerating will be accomplished by a letter substantially in the following form: "The authorized schedule carrying allotment number ——%, as shown on the (advance) allotment previously sent to you, is hereby rerated and assigned the following preference rating."

§ 81.1669 *Extensions of reratings.* A rerating of a delivery may not be extended to anything to which the original rating could not be extended such as materials for plant improvement, expansion or constructions, to machine tools or other capital equipment.

§ 81.1670 *General provisions.* (a) No person is required by reason of rerating, to terminate or interrupt a production schedule if such termination or interruption would mean a substantial loss in production: *Provided,* That rescheduling may not be delayed for more than forty days after such rerating is received.

(b) No person shall, by reason of rerating, divert material specifically produced for an order bearing a rating higher than A-2 and deliver the same under the higher rerated order if such material is completed at the time the rerating is received or is scheduled for completion within fifteen days thereafter, unless such diversion is specifically directed by the War Production Board, or unless the new rating is AAA.

(c) Single forms of PDL-2102, or PD-4Y may be used to rerate deliveries to be made under different contracts with the same contractor and may specify different new ratings for separate deliveries to be made under the same contract.

(d) Reratings are retroactive to the effective date of the original rating.

(e) It must be emphasized that PDL-2102 and PD-4Y are not certificates covering original ratings. They are not to be used to acquire new or additional deliveries.

SPECIAL RATING PROCEDURE AND SCHEDULING ASSISTANCE

§ 81.1675 *Definition.* (a) A special rating is AAA or any rating which is higher than the rating authorized in the current ANMB Priorities Directive. This higher rating is assigned only by the Recording Secretary of the WPB or by delegated authority under certain circumstances.

(b) A special rating is not to be assigned under any circumstances by contracting, procurement, and inspecting officials. Such officials should not instruct suppliers to rearrange production or delivery schedules in anticipation of the receipt of the actual special rating authorization.

§ 81.1676 *Considerations preliminary to apply for a special rating.* (a) If a special rating is granted, delay will occur in the production of some other essential items which have actually been rated as more essential by high strategic authorities. Such a sacrifice should be requested only when the interruption is small and does not entail a lengthy delay to the items which will be displaced. In many cases special rating does more than merely divert a like amount from some other project. This is because the disruption of the manufacturing schedule may drastically cut the production of the entire plant.

(b) The choke point or bottleneck should be located. Only the most directly affected contract need be investigated. It should be determined whether the inability of the supplier to deliver with the present rating is because of higher rated orders on his own books or is due to delay in securing materials or components from sub-suppliers. A special rating should only be sought for the particular items causing the delay and only for the quantity of the item necessary to alleviate the situation.

(c) Accurate, complete and up to the minute information must be furnished with respect to the orders which will be set back and the amount of delay of those orders, if the authorization is granted. In cases where order boards of suppliers are extremely complicated or consist of large numbers of small items, the maximum time lost by the displacement may be acceptable where the subject request is minute in comparison with the capacity of the industry to produce. It is essential that one of the following be clearly established:

(1) Whose orders, what programs, what items, will be delayed and to what extent?

(2) No orders will be delayed over ——— days or ——— man-hours.

(3) In cases of standard production items the ratio of the quantity requested to the total daily or weekly production may be given.

(d) A showing must be made that the specifications do or do not provide for approved alternates, and if they do, that all possible sources for the approved substitutes have been exhausted, with a statement of the sources contacted. For specifications on a performance basis, a similar showing must be made.

§ 81.1677 *Procedure for applying for a special rating.* (a) When it is necessary to apply for a special rating, the following procedure is applicable: All applications except those by contractors of the Army Air Forces covering "A" or "B" Products, and all other products, should be made through the office of the chief of the technical service. The application should be accompanied by WPB Form SR-1 (12-11-42) in triplicate and such additional copies as may be required by services. All information and data requested by the form should be supplied. Atttention is directed to paragraphs 3, 5, 6, 8, and 9 of the form, the answers to which must be definite. The paragraph headed, "Basic cause of need for rating," in addition to other causes, should show specifically the amount of delay, both in time and quantity, which will occur if the special rating is not authorized. The office of the chief of the technical service should show specifically that the granting of the special rating is necessary in order to meet the requirements in both time and quantity of the Army program involved.

(b) In the case of applications filed by contractors in the Air Programs of the Army Air Forces, the following procedure shall apply: The contractor shall fill out an ASU-16 *Report of Critical* Shortage. This report will then be authenticated by the AAF resident representative concerned. The report is then sent to the Army Air Forces District Procurement Office in the District in which the contractor is situated. If the shortage cannot be relieved in the District Office, the papers are forwarded to the Aircraft Scheduling Unit or to the Office of the Assistant Chief of Air Staff, M. M. & D., depending on the nature of the item. The SR-1 Form above referred to is filled out as set forth in the preceding paragraph and filed with the Special Rating Branch through the Army Air Forces Washington Office.

§ 81.1678 *Advice as to action taken on application.* (a) If, after investigation, it is decided to assign the special rating, the WPB will send a telegram in the name of the Recording Secretary to the applicant named in paragraph 1 of the SR–1 Form. This telegram will authorize the application of the special rating only to the quantities of items specified in the telegram. The applicant should be instructed to immediately extend the rating upon receipt to his supplier. Telegrams will also be sent to the supplier in cases where it appears that the war effort can be expedited by such action but in all such cases these telegrams will be addressed to the individual who is shown as fully cognizant of the facts involved.

(b) In all cases the sponsoring technical service will be advised of the action taken upon the application for special rating by an appropriate indorsement to the transmittal communication. If the application is approved a copy of the WPB telegram granting the special rating will be inclosed with the indorsement. If the application is denied or other action taken rather than authorizing the requested special rating, a complete explanation for such action will be set forth in the indorsement. The technical service will promptly notify the applicant of the action taken upon an application when the special rating is not authorized in order that any suggested action may be followed and reconsideration requested if further details can be submitted which would warrant further consideration by the Special Rating Section.

§ 81.1679 *Requests for special scheduling.* (a) Requests for scheduling assistanee for items covered by General Scheduling Order M–293 or other scheduling orders which are not available on their present production schedule to meet the requirement in either time or quantity for Army supply program may be submitted to the WPB through the interested technical service.

(b) These applications for scheduling assistance may be submitted on the above mentioned SR–1 Form in the same manner as requests for special ratings and will be considered by the Special Rating Section to determine the urgency of the requirements.

RELATION OF PRIORITIES TO MATERIAL ALLOCATION SYSTEMS

§ 81.1685 *Systems for controlling scarce materials.* (a) Systems controlling the distribution of scarce materials. like preference ratings, are an essential part of the general scheme of effecting precedence. The most important of the procedures for controlling the distribution of materials is the Controlled Materials Plan. Only a brief review of that plan can be given in these §§ 81.1685 to 81.1687 and interested officers are referred to the War Production Board CMP Regulations and the instructions on CMP issued by Army Service Forces.

(b) The Controlled Materials Plan is a system for the distribution of three common denominator materials: steel, copper, and aluminum. The available supply of these materials is divided among the Claimant Agencies (Army Service Forces, Navy, Civilian Requirements, etc.) quarterly and is allotted to manufacturers by one of two methods! All products containing controlled materials are divided into two classifications. "A" and "B" Products. "B" Products are listed in the official War Production Board "B" Product List. All products containing controlled materials not found on the official "B" Product List are "A" Products. Materials are distributed for the manufacture of "A" Products in the following manner: The manufacturer upon receiving a contract for the production of "A" Products, customarily submits an application for an allotment of the controlled materials necessary to complete the contract. The procuring agency which placed the contract makes the manufacturer an allotment of controlled materials which are necessary based on the application and an analysis of a bill of material contents. In like manner, the prime contractor in placing subcontracts for "A" Product components, passes on to his subcontractor a sufficient portion of the allotment he has received to enable his subcontractors to complete their components.

(c) A manufacturer of "B" Products files with the appropriate WPB Industry Division quarterly an application for an allotment of materials necessary for the manufacture of "B" Products by the applicant during the quarter. An allotment is made to the manufacturer by the Industry Division on a CMPL–150 Form. The "B" Product manufacturer would pass on a portion of this allotment to his suppliers of "A" Product components in the same manner as a prime contractor producing "A" Products. Allotments are not made by the purchaser to manufacturers of "B" Products whether the "B" Products are end items or components of other "A" or "B" Products.

(d) Similar procedure of direct allotment is provided for construction projects and there are special procedures for certain products in which one Claimant Agency has a predominant interest, for small warehouse purchases, and for small orders. The procedure for obtaining MRO under CMP has been referred to in §§ 81.1648–81.1650 of this part and is covered by CMP Regulation No. 5.

(e) A preference rating is always assigned to the authorized production schedule for an "A" Product. An "A" Product manufacturer may receive his preference rating on the allotment form or on a PD–3A certificate. This preference rating is extendible by the "A" Product manufacturer to his suppliers for all materials and components necessary to carry out the authorized production schedule, except the controlled materials.

(f) The "B" Product manufacturer shows upon his CMP–4B application the preference ratings applicable to the contracts for which he is requesting an allotment of materials. He receives his preference rating or ratings on the CMPL–150 Form and these preference ratings may be extended to his suppliers. Ordinarily the preference rating assigned to the "B" Product manufacturer on the CMPL–150 Form will conform to the pattern of the ratings of the contracts held by the manufacturer. The ratings received by the B Product manufacturer from his customers may not be extended (except AAA) but the "B" Product manufacturer in making deliveries to his customers must make these deliveries in accordance with the ratings received from the customers.

§ 81.1686 *Relationship of ratings to material control systems.* (a) The effect of a preference rating with respect to contracts for "A" Products is modified by the Controlled Materials Plan to the extent that a lower rated order for an "A" Product once accepted by the manufacturer may not be displaced by a higher rated order (except AAA) subsequently placed. That is, a manufacturer may not accept a contract rated lower than AAA if deliveries on the contract would prevent him from making scheduled deliveries on a rated contract for "A" Products previously accepted by the manufacturer.

(b) Orders for controlled materials are accepted by producers of controlled materials in the order in which they are presented. Preference ratings are not applicable to such orders and are disregarded in scheduling the production and delivery of controlled materials. Controlled materials are obtainable only if orders are accompanied by allotment symbols indicating that they are part of an allotment made by an authorized agency in the manner above described.

(c) Although CMP modifies the effect of preference ratings upon the production and delivery of "A" Products and controlled materials, it does not otherwise alter the operation of the preference rating system. For example, even under CMP, preference ratings control the production and delivery of "B" Products, of products unclassified as "A" or "B" Products, and of non-controlled materials. All procuring agencies and manufacturers, including "A" Product manufacturers, are dependent upon their preference ratings to obtain these products and materials.

§ 81.1687 *Optional procedure under Priorities Regulation No. 11B.* An optional procedure for distributing non-controlled materials has been established by WPB Priorities Regulation No. 11B. This regulation provides that a manufacturer of products unclassified as either "A" or "B" Products may make application to the appropriate Industry Division of the WPB on a PD–870 Form for a preference rating for specified quantities of non-controlled materials. The authorization to the manufacturer is accompanied by preference ratings which are extendible by the manufacturer to his suppliers. A manufacturer operating under Priorities Regulation No. 11B may not extend the ratings he receives from his customers. However, the rating received with his allotment will conform to the ratings of the contracts held by him if above certain base ratings.

SUMMARY OF WPB ORDERS

§ 81.1690 *Summary of WPB orders.* (a) "P-orders" are preference rating orders. "Blanket" preference rating orders are used to avoid paperwork by assigning ratings which may be used for more than one delivery to obtain a variety of materials not specified in the assignment of the rating. A "P" order saves time which would be required to assign hundreds of identical ratings on individual application forms (such as PD–1A or PD–3A), when it has been determined that a certain end-use should be assigned a specific rating without restriction.

(b) "P-orders" are of two general types. The "open-end" type which assigns a rating to deliveries of all material required for the production of a named end-product. There is no restriction on the quantity of material which may be obtained by use of the rating and, as a rule, any person whose operations fit into the rated category may use the rating. This type of order is seldom issued. The "pre-audit" type of P-order gives closer control. It also assigns a blanket rating, but the rating may be used only to obtain the quantity and types of material specifically authorized after proper periodic application to the War Production Board, as set forth in the P-order.

(c) "L-orders" are limitation orders, and like P-orders, are economic controls which control end-product output. Unlike P-orders (which promote production of needed end-products), the L-orders restrict or prohibit the manufacture of less needed end-products. The most typical L-order is a horizontal cut which limits each manufacturer of the regulated product to a certain percentage of his production during a base period (usually a pre-war year). An L-order may prohibit or regulate manufacture, sale, purchase, delivery, acceptance of delivery, etc. L-orders were used to stop the production and regulate the sale of automobiles, refrigerators, etc. Other L-orders provide standardization and simplification practices: *Provided,* That certain end-products (e. g., bicycles) may be produced only in accordance with specifications set forth in the L-order.

(d) "M-orders" are material orders. They govern the distribution or use of raw materials, e. g., copper, iron and steel, lumber, paper, etc. One type of M-order is the "conservation order" which provides, for example, that copper or steel may not be used in certain listed end-products. Other M-orders are called "General preference orders." These exercise a great variety of controls and are difficult to classify. The following are the most usual provisions found in M-orders: (1) a general inventory restriction and a rule that war orders must be filled first; (2) a rule that certain listed uses shall have preference in obtaining the regulated material; (3) a rule that all purchase orders must be filed with WPB and the distribution of the material held subject to close check, with perhaps the establishment of a "kitty" or reserve pool; (4) a requirement that suppliers must report their potential supply to WPB and users report their prospective demands, permitting WPB to compare the total supply with the demand; (5) a complete allocation order, providing that no person shall deliver or take delivery of the restricted material except as specifically authorized by the War Production Board.

(e) "E-orders" are equipment orders. They are similar in principle to the M-orders but are used to regulate the distribution of certain vital manufacturing equipment, such as machine tools.

(f) "T-orders" are transportation orders. This type of order regulates shipments of certain listed end-products, by tank cars and tank trucks. Its purpose is to prevent unnecessary cross-hauling.

(g) "U-orders" are utilities orders. They perform the same functions as P-orders, L-orders, and M-orders, in the field of "utilities," electric power, gas, water, steam, telephone, and telegraph.

(h) "R-orders" are rubber orders and regulate the use of rubber.

(i) "S-orders" are suspension orders. They impose specific penalties for violations of WPB orders and regulations. They may be used to stop or limit the business operations of a concern which has failed to comply with regulations issued in the interest of the war effort.

§ 81.1691 *Appeals from L, M, and R-orders.* Relief from the restrictions of these orders may be obtained in individual cases by (a) specific WPB authorization, or (b) by appeals to WPB. The applicable L, M, and R-orders state which or both methods may be used. Where under the second method the applicant takes an appeal to WPB involving items or material being procured to or for the account of the Army, such appeal is referred to the Army and Navy Munitions Board for a recommendation as to its military essentiality before final action is taken by WPB. The appeal is placed with WPB not by the technical service, but by the processor of the restricted material or producer of the prohibited item. To assure appropriate military review of such appeals and support, where necessary, it is important that the applicant identify the appeal as involving military procurement. In the case of a prime or subcontractor, the military prime contract involved should be identified by the appropriate symbols of the contract, Letter of Intent, or purchase order to indicate the military end item.

§ 81.1692 *Index to orders.* All WPB orders are indexed in the monthly publication "Products and Priorities", obtainable from the War Production Board Publications Section, Washington, D. C.

PREFERENCE RATINGS FOR PROCUREMENT FROM UNIT FUNDS

§ 81.1695 *Authority delegated to Special Services Division.* Authority has been granted to the Special Service Division, Headquarters, Army Service Forces, to administer, control, and redelegate to field officers authority to issue Preference Rating Certificates, War Production Board Form PD–3A, and assign thereon the applicable rating for the procurement of items being purchased with unit or similar funds.

§ 81.1696 *Procedure.* (a) Unit or similar funds are defined in AR 210–50.

(b) Preference rating certificates, War Production Board Form PD–3A, may be issued by field Purchasing and Contracting Officers or Special Service Officers for purchases totaling $500.00 or less without prior approval. Purchases must not be split to avoid prior approval.

(c) Before issuance of preference rating certificates, War Production Board Form PD–3A, the following must be clearly established:

(1) The Commanding Officer will state in writing that the items sought are immediately necessary.

(2) The Post Quartermaster will certify that the items are not available from Quartermaster depots or supply stocks.

(d) The statements referred to in paragraph (c) above will be attached to the issuing officer's copy of preference rating certificates, War Production Board Form PD–3A, and remain on file for a period of not less than six months after completion of the transaction.

(1) In instances where an item is covered by a War Production Board limitation order which specifically states that a form other than the PD–3A will be used, the appropriate War Production Board Form must be completed and forwarded to Priorities Liaison Officer, Fiscal Branch, Special Service Division, Headquarters, Army Service Forces, which officer in turn will analyze the application and expedite its consideration by the War Production Board.

(2) The duplicate copy of all preference rating certificates issued under the above authority will be forwarded to the Priorities Liaison Officer, Fiscal Branch, Special Service Division, Headquarters, Army Service Forces.

(e) On purchases involving more than $500.00 the PD–3A certificate will be accomplished in quintuplicate and all copies will be forwarded to the Priorities-Liaison Officer, Fiscal Branch, Special Service Division, Headquarters, Army Service Forces, accompanied by the statements referred to above for further consideration. Preference rating certificates, War Production Board Form PD–3A, should be procured from the local War Production Board Office.

§ 81.1697 *Accomplishing the PD–3A Certificate and assigning the applicable rating.* The issuing officer will be responsible for the proper accomplishment of all PD–3A certificates. The issuing officer will:

(a) Place the contract number, purchase order number, or requisition number in the space provided for on the form.

(b) Insert the name of the supplier in the space "Issued to".

(c) The address of the office of the supplier where original copy of PD–3A certificate will be filed.

(d) Insert "War Department", and station in section headed Government agency placing contract.

(e) Insert actual required delivery date in applicable column, such terms as "30 days", "60 days", "At once", et cetera are not sufficient.

(f) Insert quantity and dollar value, (which may be an estimated amount if actual value is not known) and description in applicable spaces provided for on form.

(g) For purchases amounting to less than $500.00 the issuing officer will manually countersign the PD–3A certificate and insert thereunder the name of the post or station and the date the certificate was actually issued.

(h) On purchases amounting to more than $500.00 the certificate will not be countersigned in the field.

(i) Insert Preference Rating "AA–3" in space provided for. In no instance may a rating higher than AA–3 be assigned on Preference Rating Certificate, War Production Form PD–3A by field issuing officers.

(j) Insert in ANMB Code No. or Authority, "1st Ind. ANMB 3–30–43, JSL".

§ 81.1698 *Out-of-line rating.* Any request for a rating higher than AA–3 required to effect delivery for purchases from unit or similar funds must be processed as follows:

(a) The certificate will be accomplished as set forth in § 81.1697, and (after countersignature as prescribed) actually tendered to the supplier. Should the supplier state he cannot make delivery on the assigned rating, have this statement confirmed by the complete accomplishment of Form SR–1, in triplicate.

(b) Form SR–1, in triplicate, obtainable from the local office of the War Production Board, should be forwarded by the issuing officer to the Special Ratings Section, Production Service Branch, Production Division, Headquarters, Army Service Forces. Information copy should be forwarded simultaneously to Priorities Liaison Officer, Fiscal Branch, Special Service Division, Headquarters, Army Service Forces.

§ 81.1699 *Issuance of instructions.* All instructions dealing with Priorities or implementations of instructions relating to priorities on purchases from unit or similar funds must be cleared with the Priorities—Liaison Officer, Fiscal Branch, Special Service Division, Headquarters, Army Service Forces before release.

[Procurement Reg. 7]

PART 83—DISPOSITION OF SURPLUS AND UNSERVICEABLE PROPERTY

MISCELLANEOUS AMENDMENTS

Section 83.702 is amended as follows:

§ 83.702 *Property defined.* The term "property" as hereinafter used in this Procurement Regulation No. 7 means all property, title to which is in the Government, other than real property. The disposition of real property is governed by Circular 212, War Department, 1943. This Procurement Regulation No. 7 is not applicable to property not owned by the Government which is in the hands of a contractor under a contract in process of termination, but the general principles stated in § 83.760 are equally applicable to such property.

In § 83.703 (f) subparagraph (2) is amended as follows:

§ 83.703 *Classification of property.* * * *

(f) * * *

(2) Nonrepairable property is unserviceable property which cannot in the best interest of the Government be mended or restored to serviceability, and scrap and waste. Nonrepairable property includes, but is not limited to obsolete nonmilitary property and also any industrial equipment, components and assemblies (whether partially or completely fabricated, processed or assembled) for which there is no reasonable use except as scrap.

* * * * * *

The first sentence in § 83.706 is amended as follows:

§ 83.706 *Written contracts of sale numbering and distribution thereof.* All contracts for the sale of property for an amount in excess of $1,000 and all contracts for more than $500 which are not to be performed within sixty days, and all contracts authorized under §§ 83.721, 83.722 or 83.723 shall be evidenced by a written contract. * * *

Section 83.707 is amended as follows:

§ 83.707 *Compliance with OPA and WPB regulations.* All sales or other transfers (except transfers within the Government) of property made under the authority of this Procurement Regulation No. 7 or otherwise shall conform to applicable orders and regulations of the War Production Board and the Office of Price Administration.

(a) War Production Board publishes monthly under the title "Products and Priorities" a booklet in which all orders and regulations are briefly digested and indexed by products. All officers responsible for disposal of War Department property should apply to War Production Board, Publications Section, Washington 25, D. C., to be placed on the distribution list for this publication if it is not now available in their offices. Field offices of War Production Board are always available for consultation and assistance on priorities and redistribution matters.

(b) Officers responsible for disposal of War Department property may rely upon a representation by the buyer to the effect that the purchase is being made in compliance with all War Production Board regulations affecting the buyer, unless they have knowledge or reason to believe that such representation is false. Such a representation should be incorporated in each written contract for the sale of serviceable War Department property.

In § 83.722 paragraph (a) is added as follows:

§ 83.722 *Sales to Red Cross and U. S. O.* * * *

(a) *Other sales.* Sales under the First War Powers Act and Executive Order No. 9001, other than those authorized by §§ 83.720 and 83.721, may be made by the chiefs of the technical services provided that the approval of the Director, Production Division, Headquarters, Army Service Forces, is first obtained.

Section 83.723 is amended as follows:

§ 83.723 *Leases.* Under the First War Powers Act, 1941, and Executive Order No. 9001, and section 1 of the Act of July 2, 1940 (Public No. 703, 76th Congress) as continued in effect by section 13 of the Act of June 5, 1942 (Public No. 580, 77th Congress), the chiefs of the technical services are authorized, when it is determined by them that such action will facilitate the prosecution of the war:

(1) To include in supply contracts the Government-Owned Facilities article prescribed in § 81.332, subject to the regulations set forth as notes to § 81.332 and to other applicable sections of these Procurement Regulations (see Procurement Regulation No. 10 for approvals of higher authority which must be obtained in certain cases);

(2) To enter into separate lease agreements (i. e., agreements not made part of supply contracts) subject to applicable sections of these Procurement Regulations (see Procurement Regulation No. 10 for approvals of higher authority which must be obtained).

Section 83.724 is rescinded.

§ 83.724 *Other sales and leases under the First War Powers Act.* [Rescinded]

Section 83.725 is amended as follows:

§ 83.725 *Leases under other statutes.* Authority for the execution of lease agreements may be found in certain statutes other than those mentioned in § 83.723. See AR 850–30 for the terms of those statutes.

Section 83.726 is amended as follows:

§ 83.726 *Required clauses.* Contracts and agreements authorized by §§ 83.721, 83.722 or 83.723 will contain a "Disputes" clause (under the conditions mentioned in § 81.326, and in the form set forth in § 81.326 or in General Provision 11 of W. D. Contract Form No. 17, § 81.1317), an "Officials Not to Benefit" clause (§ 81.322) and a "Covenant Against Contingent Fees." The latter clause will read as follows: * * *

Section 83.729 is amended as follows:

§ 83.729 *Transfer to other War Department components.* Any property may, by direction of the chief of the technical service having control thereof, be transferred to another War Department component which has need of such property and makes request therefor: *Provided,* That military property will be transferred under the supervision and authority of the Director, Stock Control Division, Headquarters, Army Service Forces, or, in the case of military property of the Army Air Forces, the Commanding General, Army Air Forces, or his delegate or delegates.

Section 83.730 is amended as follows:

§ 83.730 *Transfers to and from Navy.* Upon request from the Navy, any property may be transferred to the Navy with the approval of the chief of the technical service concerned and any property requested by the chief of the technical service concerned may be accepted from the Navy. Such transfers of property to the Navy will be made under the supervision and authority of the Director, Production Division, Headquarters, Army Service Forces, as to non-military property, the Director, Stock Control Division, Headquarters, Army Service Forces, as to military property, and the Commanding General, Army Air Forces, or his delegate, as to property of the Army Air Forces. The policy established by the Joint Memorandum of the Under Secretary of War and the Under Secretary of the Navy dated 5 June 1943 is to be given effect in accordance with the provisions of this section and of paragraphs (a), (b) and (c) of § 83.731.

(a) *Transfers to Civil Aeronautics Administration.* Any property may, by direction of the chief of the technical service having control thereof, be loaned or transferred to the Administrator of Civil Aeronautics upon written request from him stating that the property will be used in carrying out the purposes of the Civilian Pilot Training Act of 1939 as amended. Such transfers will be made under the supervision and authority of the Director, Production Division, Headquarters, Army Service Forces, as to non-military property, the Director, Stock Control Division, Headquarters, Army Service Forces, as to military property, and the Commanding General, Army Air Forces, or his delegate, as to property of the Army Air Forces.

Section 83.731 is amended as follows:

§ 83.731 *Reimbursement for property transferred*—(a) *Transfers with reimbursement.* Transfers of property under § 83.728 will be effected with reimbursement pursuant to the statutes therein cited. Transfers of property permitted under §§ 83.729 and 83.730 will be effected with reimbursement of, or transfer or allotment of funds to, the transferor by the transferee, in all cases where the property is procured by the transferor for the transferee:

(1) By assignment of sole purchase responsibility;

(2) Under procurement pooling arrangements;

(3) Under any arrangement for procurement by the transferor expressly upon the prior requisition of the transferee.

(b) *Transfers without reimbursement.* Transfers of property permitted under §§ 83.729, 83.730 and 83.730 (a) will, under circumstances other than those specified under § 83.731 (a) above, be effected without any reimbursement of, or transfer or allotment of funds to, the transferor by the transferee, for either the cost of the property or of packing, handling, or transportation.

(c) *Procedure for transfers without reimbursement.* Officers authorized to transfer or direct the transfer of property without reimbursement under paragraph (b) of this section will prepare written orders, listing in detail the property to be transferred, copies of which will be furnished to the Accountable Property Officer and the receiving officers. Such orders will contain a request that the authority directing the transfer be advised of any discrepancies between the order and the property shipped or received. A copy of such orders will be used as a valid debit or credit voucher to property accounts. It will not be necessary to list for fiscal or property accounting purposes dollar values of property transferred without reimbursement.

Section 83.733 is amended as follows:

§ 83.733 *Exchange of property.* The chiefs of technical services are authorized to make any exchanges of property which are authorized by the following statutes: 39 Stat. 635, 10 U. S. C. 1271; 40 Stat. 43, 849, 10 U. S. C. 1272; 38 Stat. 1064, 10 U. S. C. 1273; 38 Stat. 1161, 41 U. S. C. 26; 50 Stat. 64, 5 U. S. C. 118d; 53 Stat. 739, 10 U. S. C. 1271 (a); 44 Stat. 680, 10 U. S. C. 1209, 1210; Act of July 2, 1940, Public 703, 76th Congress, as extended by the Act of June 5, 1942, Public 580, 77th Congress; section 203 of the Act approved June 26, 1943, Public Law No. 90, 78th Congress. Any other exchanges will be submitted for the approval of the Director, Production Division, Headquarters, Army Service Forces.

The first sentence of § 83.740 (a) is amended as follows:

§ 83.740 *Disposition of nonrepairable industrial property*—(a) *Nonrepairable industrial property other than current production scrap.* Nonrepairable industrial property (other than current production scrap, which will be disposed of under paragraph (b) of this section), and industrial property to be disposed of under § 83.763 (e), will be disposed of as follows, unless disposed of under §§ 83.720 to 83.733:

* * * * *

Section 83.750 is amended as follows:

§ 83.750 *Disposition of surplus serviceable military property.* In view of existing and potential shortages of materials, and to diminish so far as possible current demands upon the manufacturing and producing resources of the nation during the war period, it is important that serviceable property shall not be permitted to accumulate unreasonably and unnecessarily in the possession of the War Department. Accordingly in addition to the powers of disposition set forth in §§ 83.720 to 83.733 and pursuant to the First War Powers Act and Executive Order 9001, and any other relevent provisions of law, in order to facilitate the prosecution of the war by making unneeded serviceable military property available for any proper use, chiefs of technical services are authorized to declare serviceable military property surplus, with the approval of, or subject to regulations prescribed by, the Director, Stock Control Division, Headquarters, Army Service Forces, or the Commanding General, Army Air Forces, or his delegate or delegates, as to property of the Army Air Forces, when the property is of no immediate or definitely foreseeable use (1) in the function, activity or project in connection with which it was acquired or accrued, and (2) to the technical service concerned; and to dispose of such property in the manner provided in these §§ 83.750 to 83.753, notwithstanding the provisions of section 14a of Chapter 440 of Title I of the Act of June 28, 1940, 54 Stat. 681, 10 U.S.C. 1262a: *Provided,* That all sales of military property, the original cost of which exceeded $2000, made pursuant to § 83.753 will be reported to the Chairmen of the Military Affairs Committee of the House and Senate within twenty-four hours after the contract is made.

(a) The chiefs of technical services may, with the approval of the Director, Stock Control Division, Headquarters, Army Service Forces, or of the Commanding General, Army Air Forces, or his delegate or delegates, as to property of the Army Air Forces, classify as industrial property and dispose of as such, any parts or components of items of military property which are held for issue or have been issued and which have been determined to be excess.

(b) Certain surplus military property will be unsuitable for non-military use and should be dealt with as salvage. Chiefs of technical services will, therefore:

(1) Specify any types of military property included in a declaration of surplus which, in their judgment, are so specialized in design or restricted in utility as to render them unsuitable for non-military use; and

(2) Direct that such specified types, together with any other property included in such declaration which is determined upon examination to be unsuitable for non-military use in its existing condition, be dealt with as salvage. Surplus military property so directed to be dealt with as salvage will be turned over to the local salvage officer for disposal. (See AR 35-6520, par. 5b (5).) The chief of the technical service declaring such property surplus is authorized to direct specifically the disposition to be made of such property by the local salvage officer; but if no such direction is given, the property will be disposed of in accordance with regulations applicable to the disposition of salvage.

(c) Military property declared surplus and not directed to be dealt with as salvage will be disposed of in accordance with §§ 83.752 and 83.753, (See AR 35-6520, paragraph 5b, (4)).

Section 83.752 is amended as follows:

§ 83.752 *Report to Procurement Division, Treasury Department.* Military property declared surplus and not disposed of under § 83.750 (b), miscellaneous property deemed to be surplus under § 83.751, and Part 2 industrial property deemed to be surplus under § 83.763 (a), will be reported as surplus to Procurement Division, Treasury Department.

(a) *Procedure for reporting to Procurement Division, Treasury Depart-*

ment. Military property declared surplus which is in stock at depots and at installations below depot level will be reported by the depot to the Regional Office of Procurement Division, Treasury Department, for the region in which the depot is located. Installations below depot level will furnish the appropriate depot with information necessary for the reporting of military property declared surplus which is in stock below depot level. Military property declared surplus by Army Air Forces which is directed to be turned into disposal depots will be reported by the disposal depot to the Regional Office of Procurement Division, Treasury Department, for the region in which the disposal depot is located. Surplus miscellaneous property and surplus Part 2 industrial property will be reported to the Regional Office of Procurement Division, Treasury Department, for the region in which the property is located, by officers designated by the chiefs of the technical services. Reference is made to § 81.613 (e) of these Procurement Regulations for a list of Regional Offices of Procurement Division, Treasury Department. Ordinarily, Treasury Department Form 812 will be used for reporting, but where listings of property are available on tabulating machine forms or other forms which contain the essential information required by Form 812, the Regional Office of Procurement Division, Treasury Department, should be requested to accept such listings under cover of an executed Form 812 in order to avoid transcribing such listings. The authority reporting surplus property to Procurement Division, Treasury Department, will forward one copy of each such report direct to Production Division, Headquarters, Army Service Forces, or to Redistribution and Salvage Branch, Resources Division, Office of Assistant Chief of Air Staff, MM&D, Army Air Forces, in the case of property of Army Air Forces.

(b) *Disposition after reporting to Procurement Division.* Property reported to Procurement Division, Treasury Department, will be withheld from sale or other disposition by the reporting authority, except withdrawal for further use by the War Department, until the Procurement Division, Treasury Department, issues delivery instructions or clears the property for sale by the reporting authority. Upon receipt of delivery instructions from Procurement Division, Treasury Department, delivery will be made in accordance therewith. Surplus property will be accepted by Procurement Division, Treasury Department "as is, where is". The reporting authority is not required to, and should not, repair, recondition, or process such property, nor assume the expense of transportation. Although Procurement Division, Treasury Department, or the consignee to whom delivery is directed, will ordinarily bear expenses of preparation for shipment, the reporting authority may prepare the property for shipment without reimbursement, if it so desires.

(c) *Clearance for sale.* When Procurement Division, Treasury Department, is unable to accept or direct delivery within a reasonable period after the property has been reported, the reporting authority should request from the Regional Office of Procurement Division, Treasury Department, to which the property has been reported a clearance for sale by the reporting authority. Such request will be made in any case when delivery has not been accepted or directed by Procurement Division within 45 days after the property is reported, and earlier request should be made when space is not available for continued storage. If clearance is not granted by Procurement Division, Treasury Department, the reporting authority will notify Production Division, Headquarters, Army Service Forces, or Redistribution and Salvage Branch, Resources Division, Office of Assistant Chief of Air Staff, MM&D, Army Air Forces, in the case of property reported by a component of Army Air Forces, of the circumstances, and these Divisions will take appropriate action to obtain the necessary clearance. When property which has been reported to Procurement Division, Treasury Department, is returned to stock or transferred to another War Department Component for further use within the War Department, the Regional Office of Procurement Division, Treasury Department, to which the property was reported will be immediately notified of the withdrawal of the property. The authority reporting property to Procurement Division, Treasury Department, will be responsible for notifying installations having custody of such property when clearance for sale is obtained.

Section 83.753 is amended as follows:

§ 83.753 *Sale after clearance.* Property which Procurement Division, Treasury Department, has cleared for sale may be sold by negotiated sale. The authority declaring the property surplus, in the case of military property, or in the case of miscellaneous property and Part 2 industrial property, the authority responsible for circularization, may direct that the property be sold by a particular officer or that it be sold in a particular manner. In the absence of such directions, sales will be made by local salvage officer in accordance with regulations applicable to the sale of salvage, except that all documents relating to such sales will be clearly marked to indicate sale of surplus property.

In § 83.761, paragraphs (a) (4), (b) (1) (iv) and (c) are amended as follows:

§ 83.761 *Circularization.* * * *

(a) *Circularization lists.* * * *

(4) Part 4 will include controlled materials in the forms and shapes and in the minimum quantities set forth in § 83.781, Part 4 will be subdivided into:

Part 4A, consisting of steel;
Part 4B, consisting of copper and copper base alloy; and
Part 4C, consisting of aluminum.

Circularization Lists of Part 4 property will be prepared substantially in the form set forth in paragraphs (a), (b) and (c) of § 83.781

* * * * *

(b) *Description and coding.* (1) * * *

(iv) Date of reporting to War Production Board required under § 83.763 (b) (1), in the case of Part 1 property.

* * * * *

(c) *Transmittal of lists.* (1) Circularization will be accomplished by transmitting copies of Circularization Lists as follows:

(i) Parts 1, 2, and 3, to the offices listed in § 83.782.

(ii) Part 4, to Production Division, Headquarters, Army Service Forces (3 copies) and to the Regional Office of War Production Board for the region in which the property is located. The addresses of such Regional Offices and the territories within their jurisdiction are set forth in § 83.783.

(iii) Part X, to Production Division, Headquarters, Army Service Forces, to procurement offices of other technical services at such levels and within such geographical areas as the technical service concerned deems desirable, and to the Regional Offices of War Production Board and Procurement Division, Treasury Department, for the regions in which the property is located.

(2) Transmittal of circularization lists to Procurement Division, Treasury Department, as required under this paragraph (c) will not constitute a reporting as surplus of the items comprised therein.

* * * * *

Section 83.762 is amended as follows:

§ 83.762 *Disposition during circularization period.* Before the termination of the circularization period, the technical service concerned will determine what property included in Circularization Lists should be retained for present or definitely foreseeable needs within such service for military or industrial purposes and will withdraw such property from availability. Property which is not so withdrawn may be disposed of during the circularization period in accordance with the provisions of §§ 83.721 to 83.733 of this Procurement Regulation No. 7 upon request of an interested service or agency made prior to the expiration of the circularization period. The Redistribution and Salvage Officer designated by the Chief of Engineers is specifically charged with acquiring items of Part 2 property not withdrawn under the first sentence of this section, which are suitable for troop use or tactical operations.

In § 83.763 paragraphs (b) and (c) are amended; paragraph (d) is redesignated (e) and amended, and a new paragraph (d) is added.

§ 83.763 *Disposition after circularization period.*

* * * * *

(b) *Disposition of Part 1 property upon termination of circularization period.* (1) Upon termination of the circularization period, Part 1 property which has not been withdrawn or disposed of under § 83.762 will be promptly reported to Redistribution Division, War Production Board, Washington, D. C. Such report may be made in the form of either the original Circularization List

with physical deletion of items withdrawn or disposed of under § 83.762, or the original Circularization List with a memorandum of deletions, or a new list including items not withdrawn or disposed of under § 83.762. Twenty copies of this report will be transmitted to Redistribution Division, War Production Board.

(2) Part 1 property reported under this paragraph (b) may be:

(i) Disposed of in accordance with the provisions of §§ 83.720 to 83.733 of this Procurement Regulation No. 7.

(ii) Sold to any purchaser. Items so sold will be deemed to be surplus.

(iii) Delivered to or upon the order of Procurement Division, Treasury Department, upon request of that Division. Items so delivered will be deemed to be surplus.

(iv) Withdrawn, prior to disposal, for an immediate or definitely foreseeable use within the technical service concerned.

(3) After the report of Part 1 property under this paragraph (b) and prior to the expiration of the second calendar month following the month in which such property is reported, the disposition or withdrawal of any items thereof will be subject to the specific authorization of War Production Board. Such authorization will be obtained in the following manner:

(i) Application will be made by letter, telegram, or telephone to Redistribution Division, War Production Board, Washington, D. C. (telephone Republic 7500, extension 72784 or 73747). Redistribution Division will authorize by telegram in response to a telegraphic request, or by telephone when requested, and will confirm by mail. Otherwise authorization will be mailed.

(ii) Application will contain the following information:

(*a*) State whether property is to be sold, leased, transferred, or withdrawn.

(*b*) Give name and code reference of item and quantity to be disposed of or withdrawn.

(*c*) In case of transfer, give name of War Department component or other government agency to which transfer will be made. In case of sale or lease give name and address of buyer or lessee.

(*d*) Where authorization is requested for sale or lease (but not transfer or withdrawal), briefly state the purpose for which the property is being acquired by the buyer or lessee (for example, "Resale," "Production of aviation gasoline," "Clothing manufacture," "Electric Utility," "Railroad," etc.).

(iii) It should be noted that certain items of Part I property are subject to War Production Board limitation orders which restrict the uses for which such items may be sold, purchased, or leased, and, in some instances, require specific authorization to the owner for disposal, or specific authorization to the buyer or lessee for acquisition, or both. Authorization given by Redistribution Division upon application made in accordance with (i) and (ii) above will satisfy the requirements imposed upon the seller by these orders and no other application need be made by the authority responsible for disposal. Where these orders require authorization to the buyer or lessee for acquisition, however, it will be necessary for the buyer to obtain such authorization through usual War Production Board channels, in addition to the authorization obtained by the authority responsible for disposal under (1) and (2) above.

(iv) If for any reason the authorized withdrawal or disposal is not consummated, the authorization letter will be returned to Redistribution Division, War Production Board, with a notation on the back "disposal not consummated."

(v) Suggested forms of letter and telegraphic applications are set forth in §§ 83.784 and 83.785 respectively.

(c) *Disposition of Part 3 property and Part X property upon termination of circularization period.* Upon the termination of the circularization period, Part 3 and Part X property may be withdrawn or disposed of in the manner provided in paragraph (b) (2).

(d) *Disposition of Part 4 property upon termination of circularization period.* (1) Upon the termination of the circularization period, the Regional Office of War Production Board to which Part 4 property has been reported in accordance with § 83.761 (c) (1) (ii) will be notified of items thereof which have been withdrawn or disposed of under § 83.761 and the remaining items may be withdrawn or disposed of in the manner provided in paragraph (b) (2) of this section. (2) Any Part 4 property which has been reported to a Regional Office of War Production Board while in the ownership, custody or possession of a contractor, as excess, whether so reported by the contractor or the technical service concerned, may be disposed of by the technical service concerned, upon taking title or possession, in the manner provided in paragraph (b) (2) of this section without further circularization or reporting. (3) The technical services concerned will promptly notify the appropriate Regional Office of War Production Board of the disposal of Part 4 property under this paragraph (d), in order that War Production Board may maintain current and accurate listings. (4) Under the procedures established in this paragraph (d) and paragraph (c) of this section, current listings of all excess Part 4 property will be maintained at Regional Offices of War Production Board and may be examined by any War Department procurement agency. (5) Part 4 property listed with Regional Offices of War Production Board may be purchased "ex quota"; that is, without charge against the buyers CMP allotment, upon specific authorization from War Production Board. Where sale is made against CMP allotment, notification only, in accordance with subparagraph (3) of this paragraph (d) is required.

(e) *Disposition of slow-moving items.* Excess industrial property which has been circularized under §§ 83.760–83.781 and has not been withdrawn or disposed of within a reasonable time (to be fixed by the chief of the technical service concerned, with due regard for the nature of the property) after (1) the expiration of the second calendar month after the month of reporting under paragraph (b) (1), in the case of Part 1 property, (2) the clearance of items by Procurement Division, Treasury Department, in the case of Part 2 property, and (3) the termination of the circularization period, in the case of Part 3, 4, and X property, will be turned over to a salvage officer in the manner provided for non-repairable property in § 83.740 (a).

In § 83.781 paragraphs (a), (b) and (c) are added as follows:

§ 83.781 *Items to be included in lists of Part 4 Property.*

* * * * *

(a) *Form of Circularization List for Part 4A property.*

REPORT OF EXCESS STEEL PART 4A

Reporting station_____ List No._____ Page_____
Station No._____ Address_____ Date transmitted to WPB_____
_____ Reported to_____ (Regional Office, WPB)
Officer in charge of disposition_____ Location of property_____

(On additional pages show Part 4A, list number and page number only)

Code No.[1]	Pieces	Total weight (lbs.)	Size	Length (L) or coil (C)	Form and shape	Alloy, NE, SAE, WD, or brand	Finish [2]	Physical properties [2]	Clean or rusty

[1] Show station, service, list and part code at top of column (e. g., 12–Ord–4A–12–), followed by item number only;
[2] Use Symbols: CDG&P=Cold Drawn Ground, Polished (*g*); HRA&P=Hot Rolled Annealed, Pickled (*p*) HRT&P=Hot Rolled Turned, Polished (*p*); HR=Hot Rolled (*r*); HRA=Hot Rolled Annealed (*a*); CR=Cold Rolled (*r*); CD=Cold Drawn (*d*); FQ=Forging Quality (*q*); HT=Heat Treated (*t*).

(b) *Form of Circularization List for Part 4B property.*

REPORT OF EXCESS COPPER AND COPPER BASE ALLOY PART 4B

Reporting station _____ List No _____ Page _____
Station No _____ Address _____ Date transmitted to WPB _____
_____ Reported to _____
(Regional Office, WPB)
Officer in charge of disposition _____ Location of property _____

(On additional pages show Part 4B, list number and page number only)

Code No.[1]	Item and specification	Pieces	Total weight (lbs.)	Size	Length (L) or coil (C)	Form	Temper	Original manufacturer

[1] Show station, service, list and part code at top of column (e. g., 123-Ord-4B-12-), followed by item number only.

(c) *Form of Circularization List for Part 4C property.*

REPORT OF EXCESS ALUMINUM PART 4C

Reporting station _____ List No. _____ Page _____
Station No. _____ Address _____ Date transmitted to WPB _____
_____ Reported to _____
(Regional Office, WPB)
Officer in charge of disposition _____ Location of property _____

(On additional pages show part 4C, list number and page number only)

Code No. [1]	Alloy and temper	Pieces	Total weight (lbs.)	Dimensions and/or standard extrusion die number	Form and shape	Specification	Original manufacturer

[1] Show station, service, list and part code at top of column (e. g., 123-Ord-4C-12-), followed by item numbers only.

Sections 83.782 to 83.785 are added as follows:

§ 83.782 *Offices to receive Part 1, 2, and 3 Circularization Lists.*

	Number of copies	
	Parts 1 and 3	Part 2
Redistribution and Salvage Branch, Production Division, Headquarters, Army Service Forces, Room 4-D-600. The Pentagon, Washington 25, D. C	2	2
OFFICE OF THE CHIEF OF ORDNANCE		
Redistribution and Salvage Officer, Office of the Chief of Ordnance, Room 2-E-424, The Pentagon, Washington 25, D. C	3	1
Birmingham Ordnance District, 700 Frank Nelson Building, Birmingham, Alabama	1	
Boston Ordnance District, Room 1501-1516 Federal Street, Boston, Massachusetts	1	
Chicago Ordnance District, 38 South Dearborn Street, Chicago, Illinois	1	
Cincinnati Ordnance District, The Big Four Building, Cincinnati, Ohio	1	
Cleveland Ordnance District, 1006 Terminal Tower Building, Cleveland, Ohio	1	
Detroit Ordnance District, 1832 National Bank Building, Detroit, Michigan	1	
OFFICE OF THE CHIEF OF ORDNANCE—continued		
New York Ordnance District, Room 1815, 80 Broadway, New York, New York	1	
Philadelphia Ordnance District, 150 South Broad Street, Philadelphia, Pennsylvania	1	
Pittsburgh Ordnance District, 1202 Chamber of Commerce Building, Pittsburgh, Pennsylvania	1	
Rochester Ordnance District, 1238 Mercantile Building, Rochester, New York	1	
San Francisco Ordnance District, 402 Empire Hotel, San Francisco, California	1	
St. Louis Ordnance District, 3663 Lindell Blvd., St. Louis, Missouri	1	
Springfield Ordnance District, 95 State Street, Springfield, Massachusetts	1	
Commanding Officer, Frankford Arsenal, Philadelphia, Pennsylvania	1	
Commanding Officer, Picatinny Arsenal, Dover, New Jersey	1	
Commanding Officer, Redstone Arsenal, Huntsville, Alabama	1	
Commanding General, Rock Island Arsenal, Rock Island, Illinois	1	
Commanding Officer, Springfield Armory, Springfield, Massachusetts	1	
OFFICE OF THE CHIEF OF ORDNANCE—continued		
Commanding Officer, Watertown Arsenal, Watertown, Massachusetts	1	
Commanding General, Watervliet Arsenal, Watervliet, New York	1	
Tank-Automotive Center, Union Guardian Building, Detroit, Michigan	1	
Field Director of Ammunition Plants, 3637 Lindell Blvd., St. Louis, Missouri	1	
Small Arms Ammunition Suboffice, N. W. Ayer Building, West Washington Square, Philadelphia, Pennsylvania	1	
OFFICE OF THE CHIEF OF ENGINEERS		
Redistribution and Salvage Officer, Office of the Chief of Engineers, Room 6257, New War Building, 21st & Virginia Avenue, NW., Washington 25, D. C	3	3
Division Engineer, Great Lakes Division, McCormick Building, 332 South Michigan Avenue, Chicago, Illinois	1	
Division Engineer, Lower Mississippi Valley Division, P. O. Box 80, Vicksburg, Mississippi	1	
Division Engineer, Middle Atlantic Division, Room 909, 101 East Fayette Street, Baltimore 2, Maryland	1	
Division Engineer, Missouri River Division, Farm Credit Building, 19th & Douglas, Omaha 1, Nebraska	1	
Division Engineer, New England Division, 75 Federal Street, Boston 10, Massachusetts	1	
Division Engineer, North Atlantic Division, 21st Floor, 270 Broadway, New York 7, New York	1	
Division Engineer, Northwest Division, 114, 12 128th Street, Edmonton, Alberta, Canada	1	
Division Engineer, Ohio River Division, 1120 Huntington Bank Building, Columbus 16, Ohio	1	
Division Engineer, Pacific Division, 222 South West Temple Street, Salt Lake City 1, Utah	1	
Division Engineer, South Atlantic Division, 50 Whitehall Street, Atlanta 2, Georgia	1	
Division Engineer, Southwestern Division, Santa Fe Building, 1114 Commerce Street, Dallas 2, Texas	1	
Division Engineer, Upper Mississippi Valley Division, Syndicate Trust Building, 915 Olive Street, St. Louis 1, Missouri	1	
Area Engineer, P. O. Box 1111, Clinton, Tennessee	1	
Area Engineer, P. O. Box 265, Church Street, New York, New York	1	
Area Engineer, P. O. Box 1712, Wilmington, Delaware	1	
Area Engineer, P. O. Box 2277, Boston, Massachusetts	1	
Area Engineer, P. O. Box 550, Pasco, Washington	1	
OFFICE OF THE CHIEF OF CHEMICAL WARFARE SERVICE		
Redistribution and Salvage Officer, Office of the Chief of Chemical Warfare Service, Room 2207, Building T-7, Annex No. 1, Gravelly Point, Virginia	2	1
Commanding General, Edgewood Arsenal, Edgewood, Maryland	1	
Commanding General, Pine Bluff Arsenal, Pine Bluff, Arkansas	1	

	Number of copies	
	Parts 1 and 3	Part 2
OFFICE OF THE CHIEF OF CHEMICAL WARFARE SERVICE—CON.		
Commanding General, Rocky Mountain Arsenal, 4th Floor, Cooper Building, 17th & Curtis Streets, Denver, Colorado	1	
Commanding Officer, Huntsville Arsenal, Huntsville, Alabama	1	
Commanding Officer, Boston CW Procurement District, Room 500, 75 Federal Street, Boston, Massachusetts	1	
	1	
Commanding Officer, Chicago CW Procurement District, Room 1506, Civic Opera Building, 20 North Wacker Drive, Chicago, Illinois	1	
Commanding Officer, Dallas CW Procurement District, Mercantile Bank Building, 106 Ervay Street, Dallas, Texas	1	
Commanding Officer, Pittsburgh CW Procurment District, American Bank Building, Sixth Avenue & Grant Street, Pittsburgh, Pennsylvania	1	
Commanding Officer, New York CW Procurement District, 292 Madison Avenue, New York, New York	1	
Commanding Officer, San Francisco CW Procurement District, Room 201, 1355 Market Street, San Francisco, California	1	
Deputy Commanding Officer, Atlanta Sub-Office, Dallas CW Procurement District, 430 West Peachtree Street, NW., Atlanta, Georgia	1	
OFFICE OF THE CHIEF OF TRANSPORTATION		
Redistribution and Salvage Officer, Office of the Chief of Transportation, Room 1–E–680, The Pentagon, Washington 25, D. C.	1	1
Commanding Officer, Holding and Reconsignment Point, Attention: Transportation Corps Supply Officer, Voorheesville, New York	1	
Commanding Officer, Holding and Reconsignment Point, Attention: Transportation Corps Supply Officer, Marietta, Pennsylvania	1	
Commanding Officer, Holding and Reconsignment Point, Attention: Transportation Corps Supply Officer, Montgomery, Alabama	1	
Commanding Officer, Holding and Reconsignment Point, Attention: Transportation Corps Supply Officer, Lathrop, California	1	
Production Division, Transportation Corps, 6th & Sycamore Streets, Cincinnati, Ohio	1	
Procurement Division, Transportation Corps, 6th & Sycamore Streets, Cincinnati, Ohio	1	
OFFICE OF THE CHIEF SIGNAL OFFICER		
Redistribution and Salvage Officer, Office of the Chief Signal Officer, Room 2–E–332, The Pentagon, Washington 25, D. C.	6	1
OFFICE OF THE QUARTERMASTER GENERAL		
Redistribution and Salvage Officer, Office of The Quartermaster General, Room 1049, Temporary A Building, 2d & T Streets SW., Washington 25, D. C.	1	1
OFFICE OF THE SURGEON GENERAL		
Redistribution and Salvage Officer, Office of the Surgeon General, Room 512–B, Maritime Building, 1818 H Street NW., Washington 25, D. C.	2	1
ARMY AIR FORCES		
Redistribution and Salvage Officer, Office, Asst. Chief Air Staff, M. M. & D., Army Air Forces, Room 5–C–867, The Pentagon, Washington 25, D. C.	1	1
Redistribution and Salvage Officer, Matériel Command, Wright Field, Dayton, Ohio	8	1
District Supervisor, Eastern Procurement District, Attention: Redistribution and Salvage Officer, 67 Broad Street, New York, New York	1	
District Supervisor, Central Procurement District, Attention: Redistribution and Salvage Officer, 8505 West Warren Avenue, Detroit, Michigan	1	
District Supervisor, Midwestern Procurement District, Attention: Redistribution and Salvage Officer, Municipal Airport, P. O. Box 117, Wichita, Kansas	1	
District Supervisor, Western Procurement District, Attention: Redistribution and Salvage Officer, 3636 Beverly Blvd., Los Angeles, California	1	
District Supervisor, Midcentral Procurement District, Attention: Redistribution and Salvage Officer, 111 West Jackson Blvd., Chicago, Illinois	1	
ARMY AIR FORCES—continued		
District Supervisor, Southeastern Procurement District, Attention: Redistribution and Salvage Officer, 88 Edgewood Avenue NE., Atlanta, Georgia	1	
Redistribution and Salvage Officer, Air Service Command, Patterson Field, Fairfield, Ohio	11	1
NAVY DEPARTMENT		
Office of Procurement and Material, Navy Department, Attention: Deputy Chief in Charge of Procurement, Room 2005-A, Main Navy Building, Washington, D. C.	8	8
TREASURY DEPARTMENT		
Chief, Federal Property Utilization Branch, Procurement Division, Treasury Department, Seventh and "D" Streets SW., Washington, D. C.	1	
WAR PRODUCTION BOARD		
Redistribution Division, War Production Board, New Municipal Building, 3d & Indiana Avenue NW., Washington, D. C., Part 3 only	10	

§ 83.783 *Regional Offices of War Production Board.*

	Regional Office
Region I	
Maine New Hampshire Vermont Massachusetts Connecticut Rhode Island	Regional Manager, Redistribution Division, War Production Board, 17 Court Street, Boston, Mass.
Region II	
New York Northern New Jersey (Sussex, Passaic, Bergen, Warren, Morris, Essex, Hudson, Hunterdon, Somerset, Union, Middlesex and Monmouth counties).	Regional Manager, Redistribution Division, War Production Board, Empire State Building, New York City.
Region III	
Maryland Virginia Delaware Eastern Pennsylvania (Tioga, Bradford, Susquehanna, Wayne, Lycoming, Sullivan, Wyoming, Pike, Union, Northumberland, Montour, Columbia, Luzerne, Lackawanna, Monroe, Mifflin, Juniata, Perry, Snyder, Cumberland, Adams, Dauphin, Schuylkill, York, Lebanon, Lancaster, Berks, Lehigh, Northampton, Chester, Delaware, Montgomery and Bucks counties). Southern New Jersey (Mercer, Ocean, Burlington, Camden, Gloucester, Atlantic, Salem, Cumberland and Cape May counties).	Regional Manager, Redistribution Division, War Production Board, 1617 Pennsylvania Blvd., Philadelphia, Pa.
Region IV	
Tennessee North Carolina Mississippi Alabama Georgia South Carolina Florida	Regional Manager, Redistribution Division, War Production Board, Candler Building, Atlanta, Ga.
Region V	
Kentucky West Virginia Ohio (except Lucas county) Western Pennsylvania (Erie, Crawford, Warren, McKean, Potter, Mercer, Venango, Forest, Elk, Cameron, Clinton, Lawrence, Butler, Clarion, Armstrong, Jefferson, Indiana, Clearfield, Centre, Beaver, Allegheny, Westmoreland, Cambria, Blair, Huntington, Washington, Greene, Fayette, Somerset, Bedford, Fulton, and Franklin counties).	Regional Manager, Facilities Department, War Production Board, Union Commerce Bldg., Cleveland, Ohio.

	Regional Office
Region VI	
Indiana Illinois Iowa Wisconsin Upper Peninsula of Michigan (Gogebic, Ontonagon, Houghton, Keweenaw, Baraga, Iron, Marquette, Dickinson, Menominee, Delta, Alger and Schoolcraft counties only).	Regional Manager, Redistribution Division, War Production Board, 226 West Jackson Blvd., Chicago, Ill.
Region VII	
Arkansas Missouri Kansas Nebraska	Regional Manager, Facilities Department, War Production Board, Mutual Interstate Bldg., Kansas City, Mo.
Region VIII	
Louisiana Oklahoma Texas	Regional Manager, Redistribution Division, War Production Board, 1131 Mercantile Bldg., Dallas 2, Tex.
Region IX	
Montana Wyoming Utah Colorado New Mexico	Regional Manager, Redistribution Division, War Production Board, 621 Continental Oil Bldg., Denver, Colo.
Region X	
California Nevada Arizona Idaho (south of Salmon River)	Regional Manager, Redistribution Division, War Production Board, 1355 Market Street, San Francisco, Calif.
Region XI	
Upper Peninsula of Michigan (Luce, Chippewa and Mackinac counties only) and all Michigan counties not listed under Region VI Ohio (Lucas county only).	Regional Manager, Redistribution Division, War Production Board, 7310 Woodward Avenue, Detroit 2, Mich.
Region XII	
Minnesota North Dakota South Dakota	Regional Manager, Redistribution Division, War Production Board, Midland Bank Bldg., Minneapolis, Minn.
Region XIII	
Washington Oregon Idaho (north of Salmon River)	Regional Manager, Redistribution Division, War Production Board, White-Henry-Stuart Bldg., Seattle, Wash.

§ 83.784 *Form of letter request for authorization of disposition of Part 1 property.*

Redistribution Division,
War Production Board
Washington, D. C.

GENTLEMEN: In pursuance of § 83.763 (b) (3), War Department Procurement Regulation No. 7, authorization is requested for disposition in the following manner of War Department property under the control of the undersigned:

1. Disposal _____
("Withdrawal," "Transfer," "Sale," "Lease")
Item _____
(Code reference) (Description) (Quantity)
To _____
(Name of transferee, buyers, or lessee—Leave blank in case of withdrawal)
(Address—Show only in case of sale)
Purpose _____
(State purpose for which acquired by buyer in case of sale only
2. Disposal _____
Item _____
To _____
Purpose _____
3. Disposal _____
Item _____
To _____
Purpose _____
See annexed pages ____ to ____ inclusive for additional items.

_____
(Signature)

_____
(Address)

§ 83.785 *Form of telegraphic request for authorization of disposition of Part 1 property.*

Redistribution Division,
War Production Board,
Washington, D. C.

Request authorization _____
("Withdrawal,"
_____
"Transfer," "Sale," or "Lease")
_____
(Quantity) (Description) (Code reference)
(end telegram here in case of withdrawal)
to _____
(Name of transferee, buyer, or lessee)
(end telegram here in case of transfer)
_____
(Address of buyer)
Purpose _____
_____
(Purpose for which acquired in case of sale)
_____
(Signature)

[Procurement Reg. 15]

PART 88—TERMINATION OF CONTRACTS

MISCELLANEOUS AMENDMENTS

Section 88.15–800 to 88.15–802 are amended and §§ 88.15–803 to 88.15–806 are added as follows:

§ 88.15–800 *Monthly termination status report.* Each procurement office (except those reporting to the Commanding General of a Service Command) will prepare a monthly termination status report.

§ 88.15–801 *Report form.* The report will be prepared on W.D., A.G.O. Form No. 505 (Contract Termination Status Report). This report form is carried in stock at the Adjutant General Pentagon Depot, Washington 25, D. C. and should be ordered by reference to W.D., A.G.O. Form No. 505, The Control Approval symbol is PDE–10.

§ 88.15–802 *Matters to be covered.* The report should cover all terminations of contracts, regardless of the type or amount of the contract. It should cover all such terminations completed during the month and those still in process. If no such terminations have been completed and none are in process, a negative report will be made. When a final settlement has been made with a contractor and reflected in a monthly report, it will not be reflected in subsequent reports. The report preferably should be limited to terminations for the convenience of the Government. If terminations of any other type are included, such terminations should be clearly identified.

§ 88.15–803 *Date for submitting reports.* The report will be submitted monthly and will be filed with the settlement review committee of the chief of the technical service on or before the 10th day of the month following that for which the report is made.

§ 88.15–804 *Number of copies.* The number of copies of the report to be filed will be prescribed by the chief of each technical service.

§ 88.15–805 *Report to Contract Termination Branch, Purchases Division, Headquarters, Army Service Forces.* On or before the 15th day of the month following that for which the report is made, the chief of each technical service will file with the Chief, Contract Termination Branch, Purchases Division, Headquarters, Army Service Forces:

(a) A copy of each monthly status report filed with him

(b) A tabulation of the information contained in all such reports received by the chief of the technical service for the month in question.

§ 88.15–806 *Instructions with respect to the report form*—(a) *Dollar amounts and dollar symbols.* The sums shown in the amount columns should be to the nearest dollar. Fractions of a dollar should not be shown. Likewise no dollar symbols ($) should be used in the amount columns.

(b) *Order of listing terminations.* (1) There should first be listed in chronological order (based on the effective date of termination) the terminations which have been completed. Above these, there should appear the heading "Terminations Completed."

(2) There should then be listed in chronological order (based on the effective date of termination) the terminations which are still in process. These should be preceded by a heading "Terminations in Process".

(c) *Columnar information.* There are set forth in the succeeding subparagraphs instructions with respect to the

information to be contained in the various columns of the report form. Subparagraph (1) contains instructions with respect to column 1. Subparagraph (2) contains instructions with respect to column 2, and so forth.

(1) *Column 1:* Insert contract or other identification number.

(2) *Column 2: Name of contractor.* In order to conserve space, the full name of the contractor need not be given. Sufficient information should be given to permit identification.

(3) *Column 3: Item.* In order to conserve space, the full description of the items need not be given. Sufficient information should be given to permit identification of the item being manufactured under the contract.

(4) *Column 4: Partial or complete.* Indicate by the symbol "P" or "C" whether the termination is partial or complete. A partial termination is one in which only a part of the contract is terminated. The balance is to be continued after the effective date of termination. A complete termination is one in which the entire unperformed balance of a contract is terminated.

(5) *Column 5: Date termination authorized.* This date is the date of authorization by the chief of service of the contracting officer.

(6) *Column 6: Effective date of termination.* This date is the date designated in the notice of termination as the effective date of termination. With reference to partial terminations, this is the date the contractor is required to take action as to the terminated portion of the contract.

(7) *Column 7: Amount of contract.* The total amount of the contract and all supplements.

(8) *Column 8: Total contract price of items cancelled.* This column is to reflect the dollar amount of the cancellation. In many instances it is not possible to determine accurately the exact contract price of items cancelled. The best possible estimate should be used in such cases.

(9) *Column 9: Contractor's proposal; date of filing.* The date on which the contractor's proposal was received.

(10) *Column 10: Contractor's proposal; amount exclusive of subcontractors.* The dollar amount as proposed by the prime contractor by reason of the termination. This amount should exclude the claims of subcontractors against the prime contractor.

(11) *Column 11: Subcontractors' claim; number of claims submitted.* The number of subcontractors' claims submitted to office administering the termination by the prime contractor. This includes suppliers and vendors of standard articles.

(12) *Column 12: Subcontractors' claim; total amount.* The total dollar value of all subcontractors' claims submitted.

(13) *Column 13: Subcontractors' claim; number of claims approved.* The number of subcontractors' claims which have been approved by the date of preparation of the report.

(14) *Column 14: Partial payments; for the benefit of prime contractor.* The total amount of partial payments made to the prime contractor covering amounts intended solely for the use and benefit of the prime contractor.

(15) *Column 15: Partial payments; for benefit of subcontractors.* The total amount of partial payments made for the use and benefit of subcontractors whether such amounts are paid to the prime contractor for the account of the subcontractor or are paid direct to subcontractor.

(16) *Column 16: Details of final settlement; date.* The date of signature by the contracting officer of final settlement.

(17) *Column 17: Details of final settlement; gross amount excluding subcontractors.* The gross amount of the contractor's proposal, including expenses subsequent to termination but excluding the portion of his settlement proposal represented by payments to subcontractors.

(18) *Column 18: Details of final settlement; amount subcontractors.* The amount of payments made to subcontractors by the prime contractor and thus included in his settlement proposal.

(19) *Column 19: Details of final settlement; disposal credits.* The amount credited to the Government by the prime contractor for receipts on sales or retention of property included in his gross settlement proposal.

(20) *Column 20: Details of final settlement; net amount of settlement.* The net payment to the contractor in settlement of the proposal. This is column 17 plus 18 minus 19.

(d) *Special instructions with respect to columns 16, 17, 18, 19, 20 and 21.* These columns should be filled in only for terminations which have been completely settled during the month. In the case of "terminations in process," the space occupied by these columns should be used to explain briefly the reasons for delay in the settlement of terminations. Such explanations need not be in detail but should include such information as "contractors' settlement proposal being audited," "inventory presently 50% disposed of," and so on.

[SEAL] J. A. ULIO,
Major General,
The Adjutant General.

[F. R. Doc. 43-17200; Filed, October 23, 1943; 9:45 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs

[T. D. 50949]

PART 6—AIR COMMERCE REGULATIONS

REVOCATION OF LAREDO AIRDROME, TEXAS, AS AIRPORT OF ENTRY

OCTOBER 22, 1943.

The designation of the Laredo Airdrome, Laredo, Texas, as an airport of entry for civil aircraft and merchandise carried thereon arriving from places outside the United States is hereby revoked, effective this date.

Section 6.12, Customs Regulations of 1943 (19 CFR 6.12), is hereby amended by deleting the location and name of this airport from the list of airports of entry.

(Sec. 7 (b), 44 Stat. 572; 49 U. S. C. 177 (b))

[SEAL] HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 43-17237; Filed, October 26, 1943; 10:54 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue

Subchapter A—Income and Excess Profits Taxes

[T.D. 5303]

PART 30—REGULATIONS UNDER THE EXCESS PROFITS TAX ACT OF 1940

INVESTED CAPITAL IN CONNECTION WITH CERTAIN EXCHANGES AND LIQUIDATIONS

In order to conform Regulations 109 (Part 30, Title 26, Code of Federal Regulations, 1941 Supp.) to section 230 (a) and (d) of the Revenue Act of 1942 (Public Law 753, 77th Congress), approved October 21, 1942, such regulations are amended by inserting immediately following § 30.751-3 as added by Treasury Decision 5246, approved March 18, 1943, the following:

SEC. 230. INVESTED CAPITAL IN CONNECTION WITH CERTAIN EXCHANGES AND LIQUIDATIONS. (Revenue Act of 1942, Title II.)

(a) *Exchanges and Liquidations.* Chapter 2E is amended by inserting at the end thereof the following new supplement:

SUPPLEMENT C—INVESTED CAPITAL IN CONNECTION WITH CERTAIN EXCHANGES AND LIQUIDATIONS

SEC. 760. EXCHANGES.

(a) *Definitions, etc.* For the purposes of this section—

(1) *"Exchange", "transferor", and "transferee".* The term "exchange" means a transaction by which one corporation (hereinafter called "transferee") receives property of another corporation (hereinafter called "transferor") and the basis of the property received, in the hands of the transferee, for the purposes of section 718 (a) is determined by reference to the basis in the hands of the transferor.

(2) *Determination of basis of property received.* The basis, in the hands of the transferee, of the property of the transferor received by the transferee upon the exchange shall be determined in accordance with section 718 (a).

(b) *Rule.* In the application of section 718 (a) to a transferee upon an exchange in determining the amount paid in for stock of the transferee, or as paid-in surplus or as a contribution to capital of the transferee, in connection with such exchange, only an amount shall be deemed to have been so paid in equal to the excess of the basis in the hands of the transferee of the property of the transferor received by the transferee upon the exchange over the sum of—

(1) The amount of any liability of the transferor assumed upon the exchange and of any liability subject to which such property was so received, plus

(2) The amount of any liability of the transferee (not arising out of any liability described in paragraph (1)) constituting consideration for the property so received, plus

(3) The aggregate of the amount of any money and the fair market value of any other property (other than such stock and other than property described in paragraphs (1) and (2)) transferred to the transferor.

(c) *Reduction in daily invested capital.* In the application of section 717 to a transferee upon an exchange, the daily invested capital for any day after such exchange shall be reduced by an amount equal to the amount by which the sum of the amounts specified in paragraphs (1), (2), and (3) of subsection (b) exceeds the basis in the hands of the transferee of the property of the transferor received upon the exchange.

* * * * *

(d) *Optional retroactivity of amendments to 1940 and 1941.*—The amendments made by this section, inserting section 760 and section 761, shall also be applicable in the computation of the tax for all taxable years beginning after December 31, 1939, if the taxpayer, within the time and in the manner and subject to such regulations as the Commissioner, with the approval of the Secretary, prescribes, elects to have either or both of such amendments apply. For any taxable year for which the provisions of section 760 are applied retroactively, the amendment made by subsection (b) (2) of this section to section 719 (a) (1) shall also apply. In case the provisions of section 761 are applied retroactively, the provisions of section 718 (a) (5), section 718 (b) (4), and section 718 (c) (4) shall not apply in such computations.

SEC. 201. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title II.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

§ 30.760–1 *Definitions and determinations.* For the purposes of section 760 and §§ 30.760–1, 30.760–2, and 30.760–3:

(a) *Exchange, transferee, transferor.* The term "exchange" means a transaction in which one corporation, called the "transferee", acquires property of another corporation, called the "transferor", and the basis to the transferee of the property acquired, for the purposes of determining the amount of money or property paid in for stock, or as paid-in surplus, or as a contribution to the capital of the transferee pursuant to the provisions of section 718 (a) as a result of such exchange, is a substituted basis under section 113 (b) (2) (A), i. e., is a basis determined by reference to the basis of such property in the hands of the transferor.

(b) *Applicability of section 760 to various types of exchanges*—(1) *In general.* A substituted basis within the provisions of section 113 (b) (2) (A) may result from:

(i) The application of section 113 (a) (7) to property acquired in an exchange in a taxable year beginning after December 31, 1917, pursuant to a plan of reorganization under the provisions of section 112 (g);

(ii) The application of section 113 (a) (8) to property acquired in a taxable year beginning after December 31, 1920, by a corporation by the issuance of the stock or securities, if immediately after such acquisition the transferor is in control of the corporation under the provisions of section 112 (b) (5), or by a corporation as paid-in surplus or as a contribution to capital;

(iii) The application of section 113 (a) (17) and section 372 in certain instances to property acquired in connection with exchanges and distributions in obedience to certain orders of the Securities and Exchange Commission;

(iv) The application of section 113 (a) (20) to property acquired in certain railroad reorganizations;

(v) The application of section 113 (a) (21) to property acquired by certain street, suburban or interurban electric railway corporations; and

(vi) The application of § 23.38 (b) of Consolidated Income Tax Return Regulations 104, or § 33.38 (b) of Consolidated Excess Profits Tax Return Regulations 110 to property acquired by a member of an affiliated group of corporations from another member of such group during a consolidated return period.

The rules provided with respect to the provisions of the Internal Revenue Code and of the consolidated returns regulations mentioned in this section shall also be applicable with respect to corresponding provisions of prior revenue laws and of prior consolidated returns regulations.

Example. In 1939 Corporation X, solely in exchange for 1,000 shares of its common voting stock (representing 5 percent of its total voting stock), acquired in a statutory reorganization under section 112 (g) (1) (C) all the assets of Corporation Y. Under section 113 (a) (7) (B), the basis of such assets in the hands of Corporation X would be determined by reference to the basis of such assets in the hands of Corporation Y. The amount to be included in the equity invested capital of Corporation X as the amount paid in for stock of Corporation X as a result of such exchange shall be determined under section 760.

The mere fact that property was acquired in an exchange pursuant to a plan of reorganization in which gain or loss was not recognized does not of itself invoke the provisions of section 760 if the basis of the property is not fixed by reference to the basis in the hands of the transferor. Thus, if the exchange described in the preceding example occurred in 1935, the basis of the assets to Corporation X would be fair market value at the date of the exchange because of failure of Corporation Y to retain the 50 percent control in such assets pursuant to section 113 (a) (7) (A), and the provisions of section 760 would be inapplicable in determining the amount includible in the equity invested capital of Corporation X as a result of the exchange.

(2) *Exchanges constituting intercorporate liquidations.* Since section 760 is applicable only in the determination of the amount paid in for stock, or as paid-in surplus, or as a contribution to capital, of a transferee upon an exchange, such section shall not be applicable in determining the equity invested capital of such transferee in the case of the receipt of property in any of the exchanges described in this section if the receipt of such property is a distribution in an intercorporate liquidation, in whole or in part, of the transferor within the provisions of section 761. In such cases, the exchange shall be considered to be an intercorporate liquidation subject to the provisions of section 761. For rules relating to the adjustment of equity invested capital in the case of intercorporate liquidations, see section 761 and § 30.761–7.

The provisions of this paragraph may be illustrated by the following example:

Example. Prior to 1940, Corporation A owned the entire outstanding capital stock of Corporation B. In 1940, Corporation C acquired all of the assets of Corporation A and Corporation B in a statutory consolidation constituting a reorganization under section 112 (g) (1) (A). Although Corporation C might be deemed to have acquired the assets of Corporation B with a basis determined by reference to the basis of such assets in the hands of Corporation B, the provisions of section 760 are not applicable to such exchange since section 761 (f) provides that, in such a case, Corporation C shall be considered to have acquired in the statutory consolidation the stock of Corporation B previously owned by Corporation A and to have received the assets of Corporation B in an intercorporate liquidation.

(c) *Determination of basis of property received*—(1) *General rule.* In determining the amount paid in for stock, or as paid-in surplus, or as a contribution to capital of the transferee for the purposes of section 718 (a) with respect to an exchange, the basis of the property received upon the exchange is to be determined in accordance with the rules provided by section 718 (a) (2), namely, the basis (unadjusted) to the transferee for determining loss, adjusted with respect to the period prior to its receipt by the transferee, by an amount equal to the adjustments proper under section 115 (1) for determining earnings and profits. For the purposes of determining such basis (unadjusted) to the transferee, the amount of any gain or loss recognized to the transferor upon the exchange shall be limited to the gain or loss taken into account under section 115 (1) in computing the earnings and profits of the transferor. If the property was not disposed of prior to the taxable year, such unadjusted basis shall be determined under the law applicable to the taxable year. If the property was acquired in a taxable year beginning after February 28, 1913, and prior to January 1, 1934, and the basis of such property was prescribed by section 113 (a) (6), (7), or (9) of the Revenue Act of 1932, or if the property was acquired in a taxable year beginning after February 28, 1913, and prior to January 1, 1936, and the basis of such property was prescribed by section 113 (a) (6), (7), or (8) of the Revenue Act of 1934, for the purposes of section 760 the basis of such property shall be the same as the basis prescribed by the Revenue Act of 1932 or the Revenue Act of 1934, respectively. See section 113 (a) (12) and (16). If the property was disposed of prior to the taxable year, such unadjusted basis shall be that prescribed by the law applicable to the year of disposition, but without regard to the value of the property as of March 1, 1913.

(2) *Applicability of section 760 in case of statutory change.* If the transferee received property in any taxable year in a transaction which, under the revenue law applicable to such year, did not constitute an exchange within the provisions of section 760 (a), and if:

(i) Such property is held in the taxable year, and under the revenue law applicable to such year such transaction qualifies as an exchange under section 760, or

(ii) Such property was disposed of in a taxable year subsequent to the year of acquisition and under the revenue law applicable to such subsequent taxable year, the transaction did qualify as an exchange under section 760,

the provisions of section 760 are applicable in determining the amount paid in to the transferee as a result of such transaction. However, if such property was disposed of prior to a year in which the revenue law was changed so as to bring a transaction of such a character within the provisions of section 760, the provisions of section 760 shall not be applicable in determining the invested capital of the transferee attributable to the property acquired in such transaction.

Thus, if after December 31, 1917, a corporation acquired the entire assets of another corporation in exchange solely for 79 percent of its voting stock, although such transaction would constitute a reorganization and a tax-free exchange under the Revenue Acts of 1924, 1926, and 1928, the basis of the assets to the transferee would not be determined by reference to the basis of such assets in the hands of the transferor since an interest or control of 80 percent in the assets transferred did not remain in the transferor. See sections 203 (b) (3) and (4), 203 (h) (1) (A), and 204 (a) (7) of the Revenue Acts of 1924 and 1926, and sections 112 (b) (3) and (4), 112 (i) (1) (A), and 113 (a) (7) of the Revenue Act of 1928. The percentage of control necessary to establish a substituted basis for such property was reduced to 50 percent by section 113 (a) (7) of the Revenue Acts of 1932 and 1934. The Revenue Act of 1936 removed the necessity for any control under section 113 (a) (7), but preserved the basis established under the Revenue Act of 1932 or 1934. The Revenue Act of 1938 and the Internal Revenue Code provide in section 113 (a) (7) (A) that with respect to property acquired by a corporation in connection with a reorganization after December 31, 1917, but in a taxable year beginning prior to January 1, 1936, 50 percent control is necessary for the property transferred to have a basis to the transferee fixed by reference to the basis of the property in the hands of the transferor. In the case of property acquired in connection with a reorganization after December 31, 1935, no such control is necessary.

Example. Assume that in 1926, Corporation C acquired all the property of Corporation D in exchange for 79 percent of its entire capital stock, all of which was voting stock. Although the transaction would have been a reorganization and a tax-free exchange, the basis of the property to Corporation C in any taxable year beginning before January 1, 1932 would not have been fixed by reference to the basis of such property in the hands of Corporation D. Consequently, if Corporation C had disposed of the property prior to January 1, 1932, the amount paid in to Corporation C as a result of the 1926 exchange would not be determined under section 760. If Corporation C had disposed of the property in a taxable year beginning subsequent to December 31, 1931, the basis of such property to Corporation C would be the basis to Corporation D, and the amount paid in to Corporation C as a result of the 1926 exchange would be computed under section 760.

(3) *Inconsistent position.* As to the effect of an inconsistent position in the determination of invested capital under section 760, or without regard to its provisions, see section 734 and the regulations thereunder.

§ 30.760-2 *Determination of amount paid in for stock, or as paid-in surplus, or as a contribution to capital.* For the purposes of section 718 (a) with respect to an excess profits tax taxable year beginning after December 31, 1941, the amount of money or property determined to have been paid in for stock of the transferee, or as paid-in surplus or as a contribution to capital of the transferee in connection with an exchange defined in § 30.760-1 (a) shall be the excess of the basis (determined under § 30.760-1 (b)) in the hands of the transferee of the property of the transferor received by the transferee upon the exchange over the sum of:

(a) The amount of any liability of the transferor assumed upon the exchange and of any liability subject to which such property was so received, plus

(b) The amount of any liability of the transferee (not arising out of any liability described in (a) of this section) constituting consideration for the property so received, plus

(c) The aggregate of the amount of any money and the fair market value of any other property (other than such stock and other than property described in paragraphs (a) and (b) of this section) transferred to the transferor, whether or not such money or property was permitted to be received by the transferor without the recognition of gain.

If the sum of the amounts specified in paragraphs (a), (b), and (c) of this section exceeds the basis in the hands of the transferee of the property received from the transferor, such excess shall not be taken into account in computing the equity invested capital of the transferee but shall be used to reduce the daily invested capital of the transferee for each day after the exchange. As to the computation to be made in case of such excess, see § 30.760-3.

The application of the provisions of this section may be illustrated by the following examples:

Example (1). In 1942 Corporation X transferred property which had an adjusted basis for determining gain or loss of $600,000 to Corporation Y in consideration (1) of 80 percent of the capital stock of Corporation Y which had a fair market value of $480,000; (2) of the assumption by Corporation Y of open account indebtedness of Corporation X amounting to $20,000; (3) of the payment by Corporation Y of money and other property amounting to $120,000; and (4) of the issuance by Corporation Y to Corporation X of a bond in the amount of $110,000 secured by a lien upon the property acquired. Included in the property acquired by Corporation Y in connection with the foregoing exchange was a building which was subject to a mortgage liability of $100,000 which was not assumed by Corporation X and which was not assumed by Corporation Y. The money and other property received by Corporation X was not distributed in pursuance of the plan of reorganization and therefore the gain resulting from the exchange was recognized by such corporation in accordance with section 112 (d) (2). The amount includible in the equity invested capital of Corporation Y determined under the provisions of section 760 (b) with respect to the exchange is $370,000, computed as follows:

Gain to Corporation X recognized upon exchange

Fair market value of capital stock of Corporation Y	$480,000
Amount of liabilities of Corporation X assumed	20,000
Bond secured by lien upon property	110,000
Money and other property	120,000
Mortgage liability subject to which building was transferred	100,000
Total consideration	750,000
Less: Adjusted basis of property transferred	600,000
Gain	150,000

The gain recognized to Corporation X, however, is limited to $120,000, representing the sum of the money and fair market value of other property received by Corporation X which, pursuant to the plan of reorganization, was not distributed (see sections 112 (d) (2) and 112 (b)).

Amount deemed to be paid in for stock of Corporation Y under section 718 (a) and section 760

Adjusted basis of property to Corporation X		$600,000
Add: Gain to Corporation X recognized upon exchange		120,000
Unadjusted basis for determining loss to Corporation Y		720,000
Deduct: Amount of liabilities of Corporation X assumed	$20,000	
Bonds issued by Corporation Y secured by lien upon property received	110,000	
Money and other property paid	120,000	
Mortgage liability subject to which building was acquired by Corporation Y	100,000	350,000
Amount deemed to have been paid in for stock of Corporation Y upon the exchange		370,000

Daily invested capital of Corporation Y resulting from the exchange

Amount deemed to have been paid in to Corporation Y upon the exchange		$370,000
Borrowed invested capital:		
Mortgage liability on building not assumed	$100,000	
Bond issued secured by lien upon property	110,000	
Total borrowed capital	210,000	
Borrowed invested capital (50 percent of $210,000)		105,000
Daily invested capital		475,000

Assume that in 1943 Corporation Y sold the properties acquired from Corporation X for $750,000, the purchaser paying cash in the amount of $650,000 and taking the building subject to the mortgage liability of $100,000. The gain recognized to Corporation Y, and included in its earnings and

profits, is $30,000 ($750,000 minus $720,000). There were no other accumulated earnings and profits. Immediately thereafter Corporation Y redeemed and cancelled the bond and mortgage it had issued to Corporation X at the time of the exchange. That portion of the daily invested capital of Corporation Y for the excess profits tax taxable year following the year of the sale and attributable to the acquisition and sale of the properties received from Corporation X would be $400,000, computed as follows:

Equity invested capital resulting from the exchange	$370,000
Earnings and profits from sale of properties	30,000
Daily invested capital	400,000

Example (2). Assume that in the preceding example, the money and other property received by Corporation X upon the exchange were distributed pursuant to the plan of reorganization so that no gain was recognized to Corporation X as a result of the exchange (see sections 112 (d) (1) and 112 (k)). Consequently, the basis of the property received by Corporation Y would not be increased by any gain recognized to Corporation X pursuant to section 113 (a) (7), and would be $600,000, rather than $720,000. The amount deemed to have been paid in for stock of Corporation Y upon the exchange would be $250,000 instead of $370,000, and the daily invested capital of Corporation Y resulting from the exchange would be $355,000 instead of $475,000. Upon the sale of the property, however, a gain of $150,000, rather than $30,000, would be realized, and the accumulated earnings and profits of Corporation Y would be increased accordingly by $150,000 instead of $30,000. That portion of the daily invested capital of Corporation Y for the excess profits tax taxable year following the year of the sale and attributable to the acquisition and sale of the properties received from Corporation X would be $400,000 ($250,000 plus $150,000).

§ 30.760–3 *Reduction in daily invested capital.* For the purposes of determining for taxable years beginning after December 31, 1941, the daily invested capital of the transferee upon an exchange pursuant to the provisions of section 717 for any day after such exchange, the daily invested capital for each such day shall be reduced by an amount equal to the excess of the sum of the amounts specified in section 760 (b) (1), (2); and (3) over the basis (determined in accordance with § 30.760–1 (b)) to the transferee of the property of the transferor received upon the exchange.

In any case in which the excess of the sum of the amounts specified in section 760 (b) (1), (2), and (3) over the basis of the transferee of the property received upon the exchange is greater than the amount of the daily invested capital for any day after such exchange, the daily invested capital for such day shall be a minus quantity. In such case the average invested capital of the taxpayer computed under section 716 shall be the aggregate of the daily invested capital for each day of the taxable year computed by taking into account any plus amounts in daily invested capital and any negative amounts in daily invested capital after the exchange resulting from the application of section 760 (c), divided by the number of days in such taxable year. In no case, however, shall such average invested capital be an amount which is less than zero.

The provisions of this section may be illustrated by the following examples:

Example (1). In 1942 Corporation O owned property with an adjusted basis for determining gain or loss of $400,000 but with a fair market value of $1,000,000. Corporation O had no accumulated earnings and profits or deficit in earnings and profits. On June 30, 1942, pursuant to a plan of reorganization, Corporation P acquired such property from Corporation O in exchange for 80 percent of its outstanding stock which had a fair market value of $400,000, $125,000 in cash, and $475,000 of its short term notes. Immediately prior to the exchange Corporation P had an equity invested capital of $100,000, consisting of money and property paid in and of accumulated earnings and profits. Under section 112 (d) (1) no gain was recognized to Corporation O upon the exchange since immediately after the exchange and in pursuance of the plan of reorganization it distributed the cash and stock and notes of Corporation P to its shareholders. The daily invested capital of Corporation P for each day after the exchange was $137,500 and the average invested capital for the taxable year 1942 was $118,904.11 computed as follows:

Daily invested capital of Corporation P immediately after exchange

Equity invested capital immediately prior to exchange		$100,000
Amount deemed to have been paid in under sections 718 (a) and 760 upon the exchange		0
Borrowed invested capital of Corporation P (50 percent of $475,000)		237,500
Total daily invested capital prior to application of section 760 (c)		337,500
Less: Amount provided by section 760 (c) as reduction in daily invested capital:		
Cash paid upon the exchange	$125,000	
Notes issued by Corporation P	475,000	
Total	600,000	
Less: Basis of property received upon exchange	400,000	
Reduction under section 760 (c)		200,000
Daily invested capital for each day after exchange		137,500

Average invested capital of Corporation P for 1942

Aggregate of daily invested capital for each day prior to and including the day of the exchange ($100,000 x 181 days)	$18,100,000
Aggregate of daily invested capital for each day after the exchange ($137,500 x 184 days)	25,300,000
Total aggregate daily invested capital for each day of the taxable year	43,400,000
Average invested capital ($43,400,000 divided by 365 days)	118,904.11

Example (2). In 1942 Corporation A owned property with an adjusted basis for determining gain or loss of $1,300,000 but with a fair market value of $4,500,000. Corporation A had no accumulated earnings and profits or deficit in earnings and profits. On June 30, 1942, pursuant to a plan of reorganization Corporation B acquired such property from Corporation A in exchange for 80 percent of its outstanding stock which had a fair market value of $1,500,000, cash of $500,000, and bonds of $2,500,000. Immediately prior to the exchange Corporation B had an equity invested capital of $375,000 consisting of money paid in and of accumulated earnings and profits. Under section 112 (d) (1) no gain was recognized to Corporation A upon the exchange since immediately after the exchange and pursuant to the plan of reorganization it distributed the cash and bonds of Corporation B to its shareholders. The daily invested capital of Corporation B for each day after the exchange is minus $75,000 and the average invested capital for the taxable year 1942 is $148,150.68, computed as follows:

Daily invested capital immediately after the exchange

Equity invested capital of Corporation B immediately prior to the exchange		$375,000
Amount deemed to have been paid in upon the exchange		0
Borrowed invested capital (50 percent of $2,500,000)		1,250,000
Total daily invested capital prior to application of section 760 (c)		1,625,000
Less: Amount provided by section 760 (c) as reduction in daily invested capital:		
Cash paid upon the exchange	$500,000	
Bonds issued upon the exchange	2,500,000	
Total	3,000,000	
Less basis of property received upon exchange	1,300,000	
Reduction under section 760 (c)		1,700,000
Daily invested capital for each day immediately after exchange (a minus quality)		(75,000)

Average invested capital of Corporation B for 1942

Aggregate of daily invested capital for each day prior to and including the day of the exchange ($375,000 x 181 days)	$67,875,000
Aggregate of daily invested capital for each day after the exchange (($75,000) x 184 days) (a minus quantity)	(13,800,000)
Total aggregate daily invested capital for each day of the taxable year	54,075,000
Average invested capital ($54,075,000 divided by 365 days)	148,150.68

§ 30.760–4 *Optional retroactivity of section 760 to taxable years beginning in 1940 and 1941.* The provisions of section 760 are retroactively applicable to all excess profits taxable years beginning in 1940 and 1941 at the option of the taxpayer. If the taxpayer elects to have the provisions of section 760 applied retroactively, such provisions shall be applicable to all excess profits tax taxable years beginning after December 31, 1939; the taxpayer may not elect to have the provisions of section 760 applied with respect to one or more excess profits tax taxable years beginning in 1940 or 1941, but not to all such taxable years.

If the taxpayer elects to have the provisions of section 760 retroactively applied to taxable years beginning in 1940 and 1941, it shall file with the Commissioner of Internal Revenue, Washington, D. C., on or before March 15, 1944, a notice of its election accompanied by a recomputation of its income and excess profits taxes for the year or years involved. If the recomputation results in an overpayment for any of such years, the taxpayer should file a claim for refund on Form 843 in accordance with the provisions of section 322. The notice of election shall also be accompanied by a statement setting forth all facts relative to the determination of the basis of the property received pursuant to the exchange described in section 760 (a) (1) as well as all other factors relating to the determination of the amount of any liabilities of the transferor assumed upon the exchange, the amount of any liability to which the property so acquired upon exchange was subject, the amount of any liability of the transferee representing consideration for the property so received, and the aggregate amount of money and the fair market value of other property paid to the transferor in connection with such exchange.

In the case of any taxable year beginning in 1940 or 1941 with respect to which the provisions of section 760 have been made retroactively applicable, the borrowed capital of the transferee shall, pursuant to the provisions of section 719 (a) (1) as amended by section 230 (b) (2) of the Revenue Act of 1942, include indebtedness described in section 719 (a) (1) originally created by the transferee as consideration for the property of the transferor received by the transferee upon the exchange. See § 30.719–1 (a).

SEC. 230. INVESTED CAPITAL IN CONNECTION WITH CERTAIN EXCHANGES AND LIQUIDATIONS. (Revenue Act of 1942, Title II.)

(a) *Exchanges and liquidations.*—Chapter 2E is amended by inserting at the end thereof the following new Supplement:

SUPPLEMENT C—INVESTED CAPITAL IN CONNECTION WITH CERTAIN EXCHANGES AND LIQUIDATIONS

* * * * *

SEC. 761. INVESTED CAPITAL ADJUSTMENT AT THE TIME OF TAX-FREE INTERCORPORATE LIQUIDATIONS.

(a) *Definition of intercorporate liquidation.* As used in this section, the term "intercorporate liquidation" means the receipt (whether or not after December 31, 1941) by a corporation (hereinafter called the "transferee") of property in complete liquidation of another corporation (hereinafter called the "transferor") to which

(1) The provisions of section 112 (b) (6), or the corresponding provision of a prior revenue law, is applicable or

(2) A provision of law is applicable prescribing the nonrecognition of gain or loss in whole or in part upon such receipt (including a provision of the regulations applicable to a consolidated income or excess profits tax return but not including section 112 (b) (7), (9), or (10) or a corresponding provision of a prior revenue law),

but only if none of such property so received is a stock or a security in a corporation the stock or securities of which are specified in the law applicable to the receipt of such property as stock or securities permitted to be received (or which would be permitted to be received if they were the sole consideration) without the recognition of gain.

(b) *Definition of plus adjustment and minus adjustment.* For the purposes of this section—

(1) *Plus adjustment.* The term "plus adjustment" means the amount, with respect to an intercorporate liquidation, determined to be equal to the amount by which the aggregate of the amount of money received by the transferee in such intercorporate liquidation, and of the adjusted basis at the time of such receipt of all property (other than money) so received, exceeds the sum of—

(A) The aggregate of the adjusted basis of each share of stock with respect to which such property was received; such adjusted basis of each share to be determined immediately prior to the receipt of any property in such liquidation with respect to such share, and

(B) The aggregate of the liabilities of the transferor assumed by the transferee in connection with the receipt of such property, of the liabilities (not assumed by the transferee) to which such property so received was subject, and of any other consideration (other than the stock with respect to which such property was received) given by the transferee for such property so received.

(2) *Minus adjustment.* The term "minus adjustment" means the amount, with respect to an intercorporate liquidation, determined to be equal to the amount by which the sum of—

(A) The aggregate of the adjusted basis of each share of stock with respect to which such property was received; such adjusted basis of each share to be determined immediately prior to the receipt of any property in such liquidation with respect to such share, and

(B) The aggregate of the liabilities of the transferor assumed by the transferee in connection with the receipt of such property, of the liabilities (not assumed by the transferee) to which such property so received was subject, and of any other consideration (other than the stock with respect to which such property was received) given by the transferee for such property so received

exceeds the aggregate of the amount of the money so received and of the adjusted basis, at the time of receipt, of all property (other than money) so received.

(3) *Rules for application of paragraphs (1) and (2).* In determining the plus adjustment or minus adjustment with respect to any share, the computation shall be made in the same manner as is prescribed in paragraphs (1) and (2) of this subsection, except that there shall be brought into account only that part of each item which is determined to be attributable to such share.

(c) *Rules for the application of this section*—(1) *Stock having cost basis.* The property received by a transferee in an intercorporate liquidation attributable to a share of stock having in the hands of the transferee a basis determined to be a cost basis, shall be considered to have, for the purposes of subsection (b), an adjusted basis at the time so received determined as follows:

(A) The aggregate of the property (other than money) held by the transferor at the time of the acquisition by the transferee of control of the transferor (or, if such share was acquired after the acquisition of such control, at the time of the acquisition of such share, or, if such control was not acquired, at the time immediately prior to the receipt of any property in the intercorporate liquidation in respect of such share) shall be deemed to have an aggregate basis equal to the amount obtained by (i) multiplying the amount of the adjusted basis at such time of such share in the hands of the transferee by the aggregate number of share units in the transferor at such time, the interest represented by such share being taken as the share unit), and (ii) adjusting for the amount of money on hand and the liabilities of the transferor at such time.

(B) The basis which property of the transferor is deemed to have under subparagraph (A) at the time therein specified shall be used in determining the basis of property subsequently acquired by the transferor the basis of which is determined with reference to the basis of property specified in subparagraph (A).

(C) The basis which property of the transferor is deemed to have under subparagraphs (A) and (B) at the time therein specified shall be used in determining all subsequent adjustments to the basis of such property.

(D) The property so received by the transferee shall be deemed to have, at the time of its receipt, the same basis it is deemed to have under the foregoing provisions of this paragraph in the hands of the transferor, or in the case of property not specified in subparagraph (A) or (B), the same basis it would have had in the hands of the transferor.

(E) Only such part of the aggregate property received by the transferee in the intercorporate liquidation as is attributable to such share shall be considered as having the adjusted basis which property is deemed to have under subparagraphs (A), (B), (C), and (D) of this paragraph.

(2) *Basis of stock not a cost basis.* The property received by a transferee in an intercorporate liquidation attributable to a share of stock having in the hands of the transferee a basis determined to be a basis other than a cost basis shall, for the purposes of subsection (b), be considered to have, at the time of its receipt, the basis it would have had had the first sentence of section 113 (a) (15) been applicable.

(3) *Definition of control.* As used in this subsection, the term "control" means the ownership of stock possessing at least 80 per centum of the total combined voting power of all classes of stock entitled to vote and the ownership of at least 80 per centum of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends), but only if in both cases such ownership continues until the completion of the intercorporate liquidation.

(d) *Adjustment of equity invested capital.* If property is received by the transferee in an intercorporate liquidation, in computing the equity invested capital of the transferee for any day following the completion of such intercorporate liquidation—

(1) With respect to any share of stock in the transferor having in the hands of the transferee, immediately prior to the receipt of any property in such intercorporate liquidation, a basis determined to be a cost basis, the earnings and profits or deficit in earnings and profits of the transferee shall be computed as if on the day following the completion of such intercorporate liquidation the transferee had realized a recognized gain equal to the amount of the plus adjustment in respect of such share, or had sustained a recognized loss equal to the amount of the minus adjustment in respect of such share;

(2) With respect to any share of stock in the transferor having in the hands of the transferee, immediately prior to the receipt of any property in such intercorporate liquidation, a basis determined to be a basis other than a cost basis, there shall be treated as an amount includible in the sum specified in section 713 (a) the amount of the plus adjustment with respect to such share, or as an amount includible in the sum specified in section 718 (b) the amount of the minus adjustment with respect to such share.

(e) *Invested capital basis.* The adjusted basis which property received by the transferee in an intercorporate liquidation is considered to have under the provisions of sub-

section (c) at the time of its receipt shall be thereafter treated as the adjusted basis; in lieu of the adjusted basis otherwise prescribed, in computing any amount, determined by reference to the basis of such property in the hands of the transferee, entering into the computation of the invested capital of the transferee, or of any other corporation the computation of the invested capital of which is determined by reference to the basis of such property in the hands of the transferee.

(f) *Statutory mergers and consolidations.* If a corporation owns stock in another corporation and such corporations are merged or consolidated in a statutory merger or consolidation, then for the purposes of this section and section 718 such stock shall be considered to have been acquired (in such statutory merger or consolidation) by the corporation resulting from the statutory merger or consolidation, and the properties of such other corporation attributable to such stock to have been received by such resulting corporation as a transferee from such other corporation as a transferor in an intercorporate liquidation.

(g) *Determinations.*

(1) *Regulations.* Any determination which is required to be made under this section (including determinations in applying this section in cases where there is a series of transferees of the property and cases where the stock of transferor is acquired by the transferee from another corporation, and the determinations of the basis and adjusted basis which property or items thereof have or are considered to have) shall be made in accordance with regulations which shall be prescribed by the Commissioner with the approval of the Secretary. If the transferor or the transferee is a foreign corporation, the provisions of this section shall apply to such extent and under such conditions and limitations as may be provided in such regulations.

(2) *Application to liquidation extending over long period.* The Commissioner is authorized to prescribe rules similar to those provided in this section with respect to the days within the period beginning with the date on which the first property is received in the intercorporate liquidation and ending with the day of its completion; and the extent to which, and the conditions and limitations under which, such rules are to be applicable.

* * * * *

(d) *Optional retroactivity of amendments to 1940 and 1941.* The amendments made by this section, inserting section 760 and section 761, shall also be applicable in the computation of the tax for all taxable years beginning after December 31, 1939, if the taxpayer, within the time and in the manner and subject to such regulations as the Commissioner, with the approval of the Secretary, prescribes, elects to have either or both of such amendments apply. For any taxable year for which the provisions of section 760 are applied retroactively, the amendment made by subsection (b) (2) of this section to section 719 (a) (1) shall also apply. In case the provisions of section 761 are applied retroactively, the provisions of section 718 (a) (5), section 718 (b) (4), and section 718 (c) (4) shall not apply in such computations.

SEC. 201. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title II.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

§ 30.761–1 *Intercorporate liquidation*—(a) *General rule.* For the purposes of section 761, the term "intercorporate liquidation" means the receipt (whether or not after December 31, 1941) by a corporation (hereinafter called the "transferee") of property in complete liquidation of another corporation (hereinafter called the "transferor") to which:

(1) The provisions of section 112 (b) (6), or the corresponding provisions of a prior revenue law, are applicable, including the case in which an election has been made pursuant to the last sentence of section 113 (a) (15) of the Revenue Act of 1936, as amended by section 808 of the Revenue Act of 1938, or

(2) A provision of law is applicable prescribing the nonrecognition of gain or loss in whole or in part upon such receipt, including a provision of the regulations applicable to a consolidated income tax return or a consolidated excess profits tax return, but not including the provisions of section 112 (b) (7) of the Revenue Act of 1938 relating to certain complete liquidations occurring during December 1938, or the provisions of section 112 (b) (9) relating to certain complete liquidations of railroad corporations. The provisions of regulations applicable to consolidated income or excess profits tax returns which provide for the nonrecognition, in whole or in part, of gain or loss upon a liquidation of a member of an affiliated group during a consolidated return period are article 37 of Regulations 75, 78, 89, 97, 102, § 23.37 of Regulations 104, and § 33.37 of Regulations 110. A liquidation of a member of an affiliated group during a taxable year, which is a consolidated return period, beginning prior to January 1, 1929, is not an intercorporate liquidation for the purposes of section 761, unless some provision of law other than regulations relating to consolidated returns is applicable prescribing the nonrecognition of gain or loss, in whole or in part, upon the liquidation. A liquidation of a member of an affiliated group during a taxable year, which is a consolidated return period, beginning after December 31, 1933, is not an intercorporate liquidation if it comes within the exceptions provided in articles 37 (a) and 38 (c) (3) of Regulations 89, article 37 (a) (1) and (2) of Regulations 97 and 102, § 23.37 (a) (1) and (2) of Regulations 104, and § 33.37 (a) (1) and (2) of Regulations 110.

The rules provided with respect to the sections of the Internal Revenue Code mentioned in this section shall also be applicable with respect to corresponding sections of prior revenue laws.

(b) *Exception.* A transaction is an intercorporate liquidation within the meaning of the foregoing provisions only if none of the property received by the transferee is a stock or a security in a corporation, the stock or securities of which are specified in the law applicable to the receipt of such property as stock or securities permitted to be received (or which would be permitted to be received if they were the sole consideration) without the recognition of gain.

Thus assume that Corporation P owned all the outstanding stock of Corporation S. Pursuant to a plan of reorganization, Corporation S transferred all its assets to Corporation S (1) in exchange for all the capital stock of Corporation S (1), and distributed such stock to Corporation P in liquidation. The entire property received by Corporation P upon the liquidation of Corporation S was stock in a corporation which pursuant to section 112 (b) (3) Corporation P was permitted to receive without the recognition of gain. Consequently, the transaction in which Corporation P acquired the stock of Corporation S (1) in complete liquidation of Corporation S is not an intercorporate liquidation within the provisions of section 761. If the reorganization had occurred in a taxable year beginning prior to January 1, 1934, and the stock of Corporation S (1) had been acquired pursuant to a plan of reorganization by Corporation P without the surrender of the stock of Corporation S, such acquisition by Corporation P of all the assets of Corporation S would not constitute an intercorporate liquidation within the meaning of section 761, since the stock of Corporation S (1) is a stock specified in section 112 (g) of the Revenue Act of 1932 and corresponding provisions of prior revenue laws as stock in a corporation permitted to be received without the recognition of gain. If the stock of Corporation S (1) was acquired by Corporation P in a taxable year beginning subsequent to December 31, 1933, without the surrender or cancellation or retirement of the stock of Corporation S, since the transaction would not be one in which gain or loss is not recognized to Corporation P, the transaction would not be an intercorporate liquidation under section 761. (See § 19.112 (g)–5 of Regulations 103.)

Assume that Corporation P owned the entire outstanding capital stock of Corporation S and that Corporation S owned the entire outstanding capital stock of Corporation S (1). If Corporation P acquired the stock of Corporation S (1) in a complete liquidation of Corporation S pursuant to the provisions of section 112 (b) (6), such liquidation would be an intercorporate liquidation within the provisions of section 761 since section 112 (b) (6) does not specify stock in any corporation as stock permitted to be received without the recognition of gain.

If, in connection with an intercorporate liquidation described in this section, there is also involved (1) the transfer by the transferor to the transferee of property not attributable to the shares of the transferor owned by the transferee in consideration of stock issued by the transferee in an exchange described in section 112 (b) (4) or in an exchange not within the provisions of section 112 (b); or (2) the transfer to the transferee by minority shareholders of the transferor of stock of the transferor in consideration of the issuance by the transferee of stock in an exchange described in section 112 (b) (3) or in an exchange not within the provisions of section 112 (b), the amount includible in the equity invested capital as a result of the receipt of such property or such stock in the exchanges described in (1) or (2) of this sentence shall be determined pursuant to the provisions of section 760 or of section 718 (a) (1) or (2), as the case may be. (See §§ 30.760–2 and 30.718–1.)

(c) *Statutory merger or consolidation.* In any case in which one corporation

owns stock in another corporation (hereinafter called the "transferring corporation"), whether or not such stock ownership amounts to control, and such corporations are merged or consolidated in a statutory merger or consolidation, for the purposes of section 761 and of section 718, the corporation resulting from the statutory merger or consolidation (hereinafter called the "resulting corporation") shall be considered first to have acquired the stock of such transferring corporation in the statutory merger or consolidation and then to have acquired the properties of such transferring corporation which are attributable to the stock considered to have been acquired by the resulting corporation in the statutory merger or consolidation as a transferee from the transferring corporation as a transferor in an intercorporate liquidation. The foregoing rule is equally applicable to all cases of statutory merger and consolidation, whether the resulting corporation operates under the charter of the parent, the subsidiary, or under a new charter.

(d) *Intercorporate liquidation involving foreign corporation.* An exchange which would otherwise be an intercorporate liquidation subject to the provisions of section 761, but which involves a foreign corporation as the transferor or transferee, shall not constitute an intercorporate liquidation for the purposes of section 761 if such exchange was consummated after June 6, 1932, and involved gain unless, prior to such exchange, it was established to the satisfaction of the Commissioner pursuant to the provisions of section 112 (i) and § 19.112 (i)–1 of Regulations 103, as amended by Treasury Decision 5086, approved October 10, 1941, or the corresponding provisions of prior revenue laws and regulations, that such exchange was not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

§ 30.761–2 *Definition of plus adjustment and minus adjustment.* For the purposes of determining the adjustment of equity invested capital under section 761 (d) and § 30.761–7:

(a) *Plus adjustment.* The term "plus adjustment" means the amount computed with respect to an intercorporate liquidation and determined to be equal to the amount by which the aggregate of the amount of money received by the transferee in the intercorporate liquidation and of the adjusted basis at the time of receipt of all property, other than money, so received exceeds the sum of:

(1) The aggregate of the adjusted basis of each share of stock with respect to which the property was received in the intercorporate liquidation, and

(2) The aggregate of the liabilities of the transferor assumed by the transferee in connection with the receipt of the property in the intercorporate liquidation, of the liabilities (not assumed by the transferee) to which the property so received was subject, and of any other consideration other than the stock with respect to which such property was so received given by the transferee for such property so received.

(b) *Minus adjustment.* The term "minus adjustment" means the amount computed with respect to an intercorporate liquidation and determined to be equal to the amount by which the sum of:

(1) The aggregate of the adjusted basis of each share of stock with respect to which the property was received in the intercorporate liquidation, and

(2) The aggregate of the liabilities of the transferor assumed by the transferee in connection with the receipt of the property in the intercorporate liquidation, of the liabilities (not assumed by the transferee) to which the property so received was subject, and of any other consideration other than the stock with respect to which such property was so received given by the transferee for such property so received,

exceeds the aggregate of the amount of money received by the transferee in the intercorporate liquidation and of the adjusted basis at the time of receipt of all property other than money so received.

(c) *Rules applicable in determining plus adjustment and minus adjustment.* For the purpose of determining the plus adjustment and the minus adjustment provided by section 761 (b):

(1) The adjusted basis of each share of stock with respect to which property is received upon the intercorporate liquidation shall be determined immediately prior to the receipt in the intercorporate liquidation of the property with respect to such share. As to the computation of the adjusted basis of such share, see § 30.761–4.

(2) The adjusted basis of property other than money at the time of receipt of such property shall be determined in accordance with the provisions of section 761 (c) and §§ 30.761–5 or 30.761–6. This adjusted basis may be different from the adjusted basis otherwise determined under the provisions of section 113.

(3) A share of stock with respect to which property is received upon an intercorporate liquidation means outstanding stock of the transferor owned by the transferee at the time of such liquidation. Outstanding stock of the transferor shall not include shares of the transferor held by it in its treasury as treasury stock. In the case of a complete liquidation of a transferor under the provisions of section 112 (b) (6), such stock refers only to stock of the transferor owned by the transferee at the time of the receipt of the property.

(4) The plus adjustment or the minus adjustment with respect to each share of stock shall be computed in the manner prescribed in section 761 (b) (1) and (2), except that there shall be brought into account only that part of each item specified in such section which is determined to be attributable to such share. The amount of any consideration (other than the stock of the transferor with respect to which property was received upon the intercorporate liquidation) given by the transferee for the property received upon the intercorporate liquidation shall be prorated with respect to each share of stock (other than stock which is limited and preferred as to assets upon liquidation) upon the basis of the percentage which one share of stock is of the total shares of stock of the transferor owned by the transferee at the time of liquidation (not including stock which is limited and preferred as to assets upon liquidation).

(5) In no event shall there be taken into account any plus adjustment with respect to a share of stock which is limited and preferred as to assets upon liquidation of the transferor in excess of the sum of:

(i) The excess of that portion of the net assets to which such share is entitled upon liquidation of the transferor over the adjusted basis to the transferee of such share at the time of liquidation, and

(ii) The amount of any cumulative dividends in arrears upon such share.

(6) Property received by a transferee in an intercorporate liquidation in exchange for stock of the transferee issued by the transferee to the transferor or to minority shareholders of the transferor, whether or not in an exchange within the provisions of section 112 (b) (4) of the applicable revenue law, is not property received upon an intercorporate liquidation, but is property received upon an exchange under section 760 or property paid in under section 718 (a) (1) or (2). Consequently, other consideration given by the transferee for property received upon the intercorporate liquidation within the provisions of section 761 (b) (1) (B) or section 761 (b) (2) (B) does not include stock of the transferee issued in consideration for property which is received at the time of the intercorporate liquidation but which is received in an exchange under section 760 or which is paid in under section 718 (a) (1) or (2).

(d) *Rules applicable in case intercorporate liquidation extends over period of time.* If any distribution in an intercorporate liquidation occurs in an excess profits tax taxable year beginning after December 31, 1939, to which the provisions of section 761 are applicable, and if the liquidation is consummated by a series of distributions covering a period of more than one taxable year, the application of the principles of section 761 in the computation of the equity invested capital of the taxpayer shall, in addition to the requirements set forth in section 761, be subject to the following requirements:

(1) The taxpayer shall file with its excess profits tax return for the first excess profits tax taxable year to which the provisions of section 761 are applicable with respect to the intercorporate liquidation a statement describing the plan pursuant to which the distributions in liquidation have been or will be made and setting forth the period within which the transfer of the property of the transferor to the taxpayer has been or is to be completed.

(2) If the intercorporate liquidation involves a distribution in liquidation pursuant to the provisions of section 112 (b) (6), the taxpayer shall comply with the requirements prescribed by § 19.112 (b) (6)–3 of Regulations 103. As used in such section, the term "profits taxes" includes the excess profits tax imposed by Subchapter E of Chapter 2. The bond

required by such section shall also contain provisions unequivocally assuring prompt payment of the excess of income and excess profits taxes (plus penalty, if any, and interest) as computed by the Commissioner without regard to the provisions of section 761 over such taxes computed with regard to such section, regardless of whether such excess may or may not be made the subject of a notice of deficiency under section 272 and regardless of whether it may or may not be assessed.

(3) If the intercorporate liquidation involves a distribution in liquidation other than one pursuant to section 112 (b) (6), in addition to the statement required by paragraph (1) for each of the taxable years which falls wholly or partly within the period of liquidation, the taxpayer shall, at the time of filing its excess profits tax return, file with the collector for transmittal to the Commissioner a waiver of the statute of limitations on assessment and collection. The waiver shall be executed on such form as may be prescribed by the Commissioner and shall extend the period for assessment of all income and excess profits taxes for such year to a date not earlier than one year after the last date of the period for assessment of such taxes for the last taxable year in which the transfer of the property of the transferor to the transferee may be completed pursuant to the plan filed by the taxpayer. Such waiver shall also contain such other terms with respect to assessment as may be considered by the Commisioner to be necessary to insure the assessment and collection of the correct tax liability for each year within the period of liquidation. For each of the taxable years which falls wholly or partly within the period of liquidation, the recipient corporation shall file a bond, the amount of which shall be fixed by the Commissioner. The bond shall contain all terms specified by the Commissioner, including provisions unequivocally assuring prompt payment of the excess of the income and excess profits taxes (plus penalty, if any, and interest) as computed by the Commissioner without regard to the provisions of section 761 over such taxes computed with regard to such provisions, regardless of whether such excess may or may not be made the subject of a notice of deficiency under section 272 and regardless of whether it may or may not be assessed. Any bond required under this paragraph shall have such surety or sureties as the Commissioner may require. However, see section 1126 of the Revenue Act of 1926, as amended, providing that where a bond is required by law or regulations, in lieu of surety or sureties there may be deposited bonds or notes of the United States. Only surety companies holding certificates of authority from the Secretary as acceptable sureties on Federal bonds will be approved as sureties. The bonds shall be executed in triplicate so that the Commissioner, the taxpayer, and the surety or the depository may each have a copy.

(4) Pending the completion of the liquidation, if there is a compliance with this section and § 30.761–1 with respect to intercorporate liquidations, the equity invested capital of the taxpayer for each day following a distribution in liquidation of the transferor shall be determined under section 761, and the plus adjustment or minus adjustment for each such day shall be computed under section 761 (b) subject to the following rules:

(i) If a distribution in liquidation is in complete cancellation and retirement of any specific share or shares of stock of the transferor, a plus adjustment or a minus adjustment with respect to such share or shares shall be computed at the time such distribution occurred pursuant to the provisions of § 30.761–2 (c), and the money and property received upon the distribution, the liabilities of the transferor assumed at the time of the distribution, the liabilities to which the property received in the distribution was subject, and any other consideration (other than the stock of the transferor with respect to which the distribution was received) shall be taken into account in computing the plus adjustment or minus adjustment with respect to such distribution and shall not be allocated to any prior or subsequent distribution.

(ii) If the distribution in liquidation is not in complete cancellation and retirement of any specific share or shares, but extends ratably over all the outstanding shares of the transferor or over all the outstanding shares of a particular class of stock of the transferor, a plus adjustment or a minus adjustment shall be computed at the time of each distribution in accordance with the provisions of § 30.761–2 (c), and:

(*a*) The distribution shall be considered a distribution with respect to each share (or each share of a particular class) held by the transferee;

(*b*) The adjusted basis of each share for the purposes of computing the plus adjustment or the minus adjustment at the time of any distribution shall bear that ratio to the total adjusted basis of such share computed under § 30.761–4 as the excess of the aggregate of the money and adjusted basis (computed under § 30.761–5 of all property other than money received from the transferor as a distribution over the aggregate of the liabilities of the transferor assumed by the transferee or to which property received from the transferor was subject, bears to the excess of the aggregate of the money and adjusted basis of all property other than money (computed under § 30.761–5) held by the transferor at the time of the first distribution in liquidation over the aggregate of the liabilities of the transferor and liabilities to which the property held by the transferor was subject, at the time of the first distribution in liquidation. In no event, however, shall the portion of the total adjusted basis of a share of stock used in computing the plus adjustment or the minus adjustment under this paragraph exceed an amount which, when added to portions of such basis previously used in computing the plus adjustment or minus adjustment in connection with such intercorporate liquidation, equals the total adjusted basis of such share computed under § 30.761–4;

(*c*) The amount of any consideration (other than the stock of the transferor with respect to which the distribution was received) given by the transferee at the time of the distribution and the amount of any liability of the transferor assumed at the time of the distribution or any liability to which the property received in the distribution was subject shall be taken into account in computing the plus adjustment or the minus adjustment with respect to such distribution, and shall not be allocated to any other prior or subsequent distribution.

(iii) In no event shall the aggregate of the plus adjustments and minus adjustments computed with respect to an intercorporate liquidation extending over a period of time be different for each day after the last day of the last distribution in liquidation than the plus adjustment or minus adjustment which would have resulted had the intercorporate liquidation been commenced and completed entirely during such last day.

§ 30.761–3 *Determination of basis of stock; cost basis or basis other than cost*—(a) *Cost basis.* In all cases other than those in which the basis of stock is determined to be a basis other than cost under paragraphs (b) and (c) of this section, the basis of stock shall be determined to be a cost basis.

(b) *Basis other than cost.* Stock in any corporation shall be determined to have a basis other than cost if, as a result of the transactions in which such stock was acquired:

(1) The basis of such stock is fixed by reference to the basis of other property previously held by the acquiring corporation, not including any case in which the basis of such other property to such corporation was a cost basis if, at the time of the acquisition of such stock or immediately thereafter, the acquiring corporation or its shareholders were in control of the corporation from which such stock was acquired or the corporation from which such stock was acquired or its shareholders were in control of the acquiring corporation; or

(2) The basis of such stock is fixed by reference to its basis in the hands of a preceding owner not including any case in which:

(i) Such stock was acquired from another member of an affiliated group of corporations in a taxable year in which the acquiring corporation and the transferring corporation filed a consolidated income or excess profits tax return and

(*a*) The basis of such stock to the transferring corporation was a cost basis, or

(*b*) The basis of the stock of the transferring corporation or of any other member of the affiliated group holding stock of the transferring corporation, directly or indirectly, was a cost basis, whether or not the basis to the transferring corporation of the stock transferred was a cost basis (see § 30.761–4 (c) relating to amount of basis) except in those cases in which such stock would have a basis other than cost if it had been acquired

in an intercorporate liquidation described in (ii) or in an exchange described in (iii); or

(ii) Such stock was acquired in an intercorporate liquidation if immediately prior to such liquidation the stock of the liquidated corporation was held by the acquiring corporation with a cost basis (see section 761 (e)), or the stock which was acquired in such liquidation was held by the liquidated corporation with a cost basis; or

(iii) Such stock was acquired from another member of a controlled group of corporations and

(*a*) The basis of such stock to the preceding owner was a cost basis, or

(*b*) The basis of the stock of the transferring corporation or of any other member of the controlled group holding stock of the transferring corporation, directly or indirectly, was a cost basis, whether or not the basis to the transferring corporation of the stock transferred was a cost basis (see § 30.761–4 (c) relating to amount of basis) except in those cases in which such stock would have a basis other than cost if it had been acquired in an intercorporate liquidation described in (ii);

Provided, That if, in the opinion of the Commissioner, the liquidation of the transferor whose stock was acquired in a transaction subject to the provisions of (b) (2) (i) and (iii) has the effect of a substitution of one member of a controlled group for another member of such group, the provisions of (b) (2) (i) and (iii) shall not be applicable. For the purposes of this section a controlled group includes one or more chains of corporations connected through stock ownership with a common parent corporation if stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of each of the corporations (except the common parent corporation) is owned directly by one or more of the other corporations and the common parent corporation owns directly stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of at least one of the other corporations. As used in the preceding sentence, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(c) *Statutory merger or consolidation.* In any case in which a corporation held stock in another corporation and such corporations were merged or consolidated in a statutory merger or consolidation, such stock, for the purposes of section 761 (f), shall be determined to have a cost basis in the hands of the corporation resulting from the merger or consolidation if such stock was held with a cost basis immediately prior to the statutory merger or consolidation and if, immediately thereafter, the shareholders of the holding corporation were in control of the corporation resulting from the statutory merger or consolidation. In all other cases, such stock shall be determined to have a basis other than cost in the hands of the corporation resulting from the statutory merger or consolidation.

(d) *Control.* For the purposes of this section, in determining whether the basis of stock is a cost basis or a basis other than a cost basis, the term "control" means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation (except nonvoting stock which is limited and preferred as to dividends).

(e) *Series of stock transfers.* The rules provided in this section shall be applicable in determining the basis of stock held by a transferee where there has been a series of transfers of such stock.

§ 30.761–4 *Computation of basis of stock; amount of basis.* The following rules are applicable in determining the adjusted basis of the stock with respect to which the property was received in the intercorporate liquidation, for the purposes of the computation of the plus adjustment or the minus adjustment under section 761 (b):

(a) *Time of computation.* The adjusted basis of each share of stock with respect to which property is received in an intercorporate liquidation shall be determined immediately prior to the receipt of any property in such liquidation with respect to such share. In case of the receipt by a corporation in a statutory merger or consolidation of shares of stock of another corporation, the properties of which are deemed to have been transferred to the acquiring corporation with respect to such stock, the adjusted basis of such stock shall be determined immediately prior to the statutory merger or consolidation.

(b) *Determination of basis.* The adjusted basis of each share of stock shall be the unadjusted basis for determining loss upon a sale or exchange, adjusted by amounts proper under section 115 (l) for determining earnings and profits, under the law applicable to the year in which the intercorporate liquidation began. If such stock has a basis fixed by reference to the basis of such stock in the hands of any preceding owner, the basis of such stock to the transferee upon its receipt shall be the basis to the prior owner determined without regard to its value as of March 1, 1913, and adjusted in the hands of the prior owner (and in the hands of any owners prior to such prior owner if the basis of such stock is determined by reference to the basis in the hands of such other prior owners) by an amount equal to the adjustments proper under section 115 (l) for determining earnings and profits. In any case in which such stock has a basis to the transferee fixed by reference to the basis of such stock in the hands of any preceding owner, and the basis of such stock in the hands of such preceding owner is different for invested capital purposes, because of the provisions of section 761, than for the purposes of determining gain or loss upon a sale or exchange, the basis of such stock for invested capital purposes, rather than the basis for determining gain or loss upon a sale or exchange, shall be used in determining the unadjusted basis of such stock to the transferee. If the basis of such stock to the preceding owner was a cost basis which is preserved to the transferee, and if the preceding owner was in control of the transferor as defined in section 761 (c) (3), the adjustments prescribed by this section with respect to stock owned by a transferee shall also be made with respect to the stock owned by the preceding owner for the purposes of determining the unadjusted basis of such stock to the transferee.

(c) *Acquisition of stock from member of affiliated or controlled group.* If stock of a corporation was acquired by a member of an affiliated group of corporations from another member of such affiliated group in a transaction subject to the provisions of § 30.761–3 (b) (2) (i) (*b*), or by a member of a controlled group of coroprations as defined in § 30.761–3 (b) (2) from another member of such controlled group in a transaction subject to the provisions of § 30.761–3 (b) (2) (iii) (*b*), the basis of such stock to the acquiring corporation shall be an amount equal to the basis which such stock would have determined pursuant to the provisions of section 761 (c) (1) and (e) if such stock were acquired as the result of an intercorporate liquidation of the corporation transferring such stock and of each member of the group owning stock of the transferring corporation, directly or indirectly, through which such stock would have passed prior to its acquisition by the member of the group.

(d) *Nonapplication of adjustment based on loss during consolidated return period.* If the transferee owns stock of a transferor with which it has made a consolidated income or excess profits tax return, the basis of such stock shall not be reduced pursuant to the provisions of section 113 (a) (11), or § 33.34 (c) of Regulations 110, or § 23.34 (c) of Regulations 104, or corresponding provisions of prior consolidated returns regulations, or similar rules of law applicable to consolidated returns, relating to decrease in basis of stock of a corporation on account of losses sustained by such corporation during a consolidated return period.

(e) *Precontrol distributions in case of cost basis stock.* As of the date of acquisition of control by the transferee (or as of the time of the intercorporate liquidation in case control was not acquired by the transferee), the basis of the aggregate assets of the transferor attributable to stock owned by the transferee with a cost basis is to be revalued to accord with such cost basis. See section 761 (c). Distributions from earnings earnings and profits of the transferor between the date of acquisition of such stock and the date of acquisition of control (or the time of the intercorporate liquidation in case control was not acquired) may have the effect of reducing the assets of the transferor properly subject to revaluation. For the purpose of section 761 in the case of such distributions made with respect to stock having a cost basis, the basis of such stock shall

be reduced by an amount proper to give effect to any such reduction in assets.

(f) *Postcontrol distributions in case of cost basis stock.* If the stock of the transferor is deemed to have a cost basis to the transferee, the adjusted basis of the assets of the transferor must be recomputed pursuant to the provisions of section 761 (c) (1) and § 30.761–5 (a). A subsequent sale or other disposition of the assets of the transferor involved in such recomputation, or the use of such assets in the trade or business of the transferor will affect the earnings and profits of the transferor in amounts determined by reference to the recomputed basis. In determining whether a distribution made by the transferor to the transferee after the acquisition of control by the transferee of the transferor is a dividend within the meaning of section 115 (a) or a distribution in reduction of the basis of the stock of the transferor under section 113 (b) (1) (*d*) for the purposes of the computation of the adjusted basis of such stock to be used in the computation of the plus adjustment or the minus adjustment under section 761 (b), the earnings and profits of the transferor recomputed in accordance with the method prescribed in this subsection shall be used in lieu of the earnings and profits of the transferor otherwise determined.

§ 30.761–5 *Basis of property received in an intercorporate liquidation with respect to stock having a cost basis*—(a) *Determination.* For the purpose of determining the plus adjustment or the minus adjustment to be used in adjusting the equity invested capital of a transferee in an intercorporate liquidation pursuant to section 761 (b) and (d), the property received by a transferee in an intercorporate liquidation attributable to a share of stock of the transferor having in the hands of the transferee a basis determined under § 30.761–3 to be a cost basis shall be considered to have at the time so received an adjusted basis determined as follows:

(1) *Basis of property with respect to stock acquired on or before date of acquisition of control of transferor.* With respect to a share of stock of the transferor acquired by the transferee with a cost basis on or before the date of acquisition by the transferee of control of the transferor, the aggregate of the property (other than money) held by the transferor at the time of the acquisition by the transferee of control of the transferor shall be considered to have an aggregate basis equal to the amount determined by:

(i) Multiplying the amount of the adjusted basis of such share in the hands of the transferee at the time of acquisition of control by the aggregate number of share units in the transferor at such time, the interest represented by such share being taken as the share unit,

(ii) Adding to the amount determined under (i) the amount of the liabilities of the transferor at the time of acquisition of control, and

(iii) Subtracting from the sum of the amounts determined under (i) and (ii) the amount of money on hand in the transferor at the time of acquisition of control.

(2) *Basis of property with respect to stock acquired after acquisition of control of transferor.* If a share of stock of the transferor was acquired by the transferee with a cost basis after the transferee acquired control of the transferor, the aggregate basis of the property of the transferor (other than money) held by the transferor at the time of the acquisition by the transferee of such share of the transferor shall be determined in the manner prescribed in (1), except that such computation shall be made as of the time of the acquisition of such share. A share of stock shall be considered to have been acquired after the transferee acquired control of the transferor only if, after the acquisition of such share, the transferee did not lose control of the transferor. A share of stock shall be considered to have been acquired on or before the date of acquisition of control if, after the acquisition of such share, the transferee lost control previously held in the transferor and subsequently reacquired and retained control until the time of the intercorporate liquidation.

(3) *Basis of property with respect to stock in transferor in which control is not acquired.* If a share of stock is owned in a transferor and if immediately prior to the receipt of any property in the intercorporate liquidation in respect of such share the transferee does not have control of the transferor, the aggregate basis of the property of the transferor shall be determined in the manner prescribed in (1), except that such computation shall be made as of the time immediately prior to the receipt of the property in the intercorporate liquidation.

(4) *Redetermination of basis of property to accord with basis of stock.* The amount determined under (1), (2), or (3) of this paragraph, representing the aggregate basis of the property of the transferor at the time of acquisition of control of the transferor, at the time of acquisition of stock of the transferor subsequent to the acquisition of control, or at the time of the intercorporate liquidation may be greater or less than the amount of the aggregate adjusted basis of the property of the transferor at such time otherwise computed. Ordinarily, if:

(i) The aggregate basis of the property of the transferor determined under (1), (2), or (3) of this paragraph exceeds the aggregate adjusted basis of such property otherwise computed, such excess shall be deemed to be the basis of an asset which, for the purposes of section 761, shall be called "positive goodwill," or

(ii) The aggregate basis of the property of the transferor determined under (1), (2), or (3) of this paragraph is less than the aggregate adjusted basis of such property otherwise computed, such difference shall be deemed to represent a deduction from the aggregate basis of the property of the transferor otherwise computed; such difference shall be represented in a credit account to be called "negative goodwill."

If the fair market value of the property of the transferor at the time as of which the recomputation is made is greater or less than the aggregate adjusted basis of such property determined without regard to (1), (2), or (3) of this paragraph, proper adjustment shall be made to the basis of such assets to reflect such difference.

(5) *Basis of property acquired by transferor subsequent to determination of basis under* 4. In any case in which the transferor, subsequent to the date as of which the redetermination of the basis of its property has been made pursuant to (4) of this paragraph, acquires additional property, the basis of which is fixed by reference to the basis of the property redetermined under (4) of this paragraph, the basis of such additional property shall be determined with respect to the basis of such property redetermined in accordance with the rules set forth in (4) of this paragraph in lieu of the basis otherwise prescribed with respect to such property.

(6) *Use of basis determined for subsequent adjustments.* The basis of the property determined under (4) or (5) of this paragraph shall be used in determining, for the purposes of section 761, all subsequent adjustments to the basis of such property, as for example, the adjustment based upon depreciation or depletion. Such basis shall also be used in lieu of the basis otherwise prescribed by section 113 in determining, for the purposes of section 761, the gain or loss resulting from a sale or other disposition of such assets by the transferor. The adjustments so obtained and the amount of gain or loss resulting from a sale or other disposition of such assets so determined shall, for the purposes of section 761, be used in computing the earnings and profits or the deficit in earnings and profits of the transferor to ascertain:

(i) Whether distributions subsequent to the date as of which the aggregate basis of the assets of the transferor is determined with respect to stock having a cost basis are out of earnings and profits of the transferor;

(ii) The amount to be included in the earnings and profits of the transferee as a result of such distributions out of earnings and profits of the transferor; or

(iii) The adjustment to be made to the basis of the stock of the transferor owned by the transferee resulting from any such distributions not out of earnings and profits of the transferor.

(7) *Property received by transferee in intercorporate liquidation.* The property received by the transferee in an intercorporate liquidation attributable to a share of stock of the transferor having a cost basis shall be considered to have, at the time of its receipt by the transferee in the intercorporate liquidation, a basis determined as follows:

(i) With respect to property so received which was owned by the transferor with a basis not determined by reference to this paragraph, for example, property the basis of which had not

been increased or decreased in a revaluation under (4) of this paragraph or property acquired subsequent to the date of such revaluation, such property shall have the same basis to the transferee which it had in the hands of the transferor immediately prior to the intercorporate liquidation, adjusted, however, by adjustments proper under section 115 (1) for the determination of earnings and profits;

(ii) With respect to property so received which was owned by the transferor with a basis increased or decreased as the result of a recomputation provided by (4) of this paragraph, and with respect to property so received which had a basis fixed, as provided by (5) of this paragraph, by reference to other property the basis of which was recomputed pursuant to the provisions of (4) of this paragraph, such property shall have the same basis to the transferee which it had in the hands of the transferor, so increased or decreased, immediately prior to the intercorporate liquidation, adjusted, however, by adjustments proper under section 115 (1) for the determination of earnings and profits; only such part of the aggregate property received by the transferee in the intercorporate liquidation as is attributable to the share of stock with a cost basis shall be considered as having the recomputed basis which such property is deemed to have under (4) or (5) of this paragraph.

(b) *Control.* For the purposes of this section, "control" means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and the ownership of at least 80 percent of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends), and shall be determined under the following rules:

(1) Control must be continued until the completion of the intercorporate liquidation.

(2) If control is lost and later reacquired (except as otherwise provided in (3)), the date of the last acquisition of control shall be considered to be the date of acquisition of control.

(3) If control, once acquired, was lost because stock of the transferor which did not possess voting power at the time such control was acquired became entitled to vote, and if control was reacquired either because the stock which became entitled to vote lost its voting power or through the acquisition of the requisite portion of such stock, and such control continues until the completion of the intercorporate liquidation, the date of acquisition of control shall be the date upon which control was first acquired.

(4) Except as otherwise provided in (6), if stock of a corporation was acquired from another corporation which had held such stock with a cost basis, and if such stock is determined to have a cost basis in the hands of the acquiring corporation fixed by reference to its basis in the hands of such other corporation, the acquiring corporation shall be deemed to have acquired such stock as of the date upon which such stock was acquired by such other corporation.

(5) If stock of a corporation was acquired from another corporation in a liquidation subject to the provisions of section 112 (b) (6), or the corresponding provisions of a prior revenue law, and if the stock of the liquidated corporation was held by the acquiring corporation with a cost basis but the stock acquired was held by the liquidated corporation with a basis other than cost, the acquiring corporation shall be deemed to have acquired the stock received in the liquidation as of the date upon which it had acquired the stock of the liquidated corporation.

(6) If stock of a corporation was acquired from another corporation in a liquidation subject to the provisions of section 112 (b) (6), or the corresponding provisions of a prior revenue law, and if the stock so acquired was held by the liquidated corporation and the stock of the liquidated corporation was held by the acquiring corporation, both with a cost basis, the acquiring corporation shall be deemed to have acquired the stock received in the liquidation as of the date upon which such stock was acquired by the liquidated corporation, or as of the date upon which the acquiring corporation acquired the stock of the liquidated corporation with respect to which the distribution was made, whichever date was the later.

(7) If stock of a corporation was acquired with a basis determined to be a cost basis under § 30.761–3 (b) (1) because the basis of such stock was fixed by reference to the cost basis of other stock in the hands of the acquiring corporation, the acquiring corporation shall be deemed to have acquired such stock as of the date upon which it had acquired such other stock.

(8) If the basis of the stock of a transferor in the hands of the transferee was increased as the result of a statutory merger or consolidation of the transferor and another corporation, or as the result of a transaction having the effect of a statutory merger or consolidation, and if the stock of such other corporation was held by the transferee with a cost basis, that portion of the transferee's stockholding interest in the transferor represented by the increase shall be deemed to have been acquired as of the date upon which the transferee had acquired the stock of such other corporation.

§ 30.761–6 *Basis of property received in an intercorporate liquidation with respect to stock having a basis other than cost.* For the purpose of determining the plus adjustment or the minus adjustment to be used in adjusting the equity invested capital of a transferee in an intercorporate liquidation pursuant to section 761 (b) and (d), the property received by a transferee in an intercorporate liquidation attributable to a share of stock of the transferor having in the hands of the transferee a basis determined under § 30.761–3 to be a basis other than cost shall be considered to have at the time so received by the transferee the basis it would have had if the first sentence of section 113 (a) (15) had been applicable, i. e., the basis of such property to the transferee shall be the basis which such property had in the hands of the transferor, adjusted by adjustments proper under section 115 (1) in determining earnings and profits. Such basis shall be used for the purposes of section 761 in lieu of the basis for determining gain or loss upon a sale or other disposition prescribed by any provision or rule of law such as the last sentence of section 113 (a) (15), or the corresponding provisions of a prior revenue law, or § 33.33 (c) (3) of Regulations 110, or § 23.33 (c) (3) of Regulations 104, or corresponding sections of prior consolidated returns regulations. Only such part of the aggregate property of the transferor received by the transferee in the intercorporate liquidation as is attributable to a share having a basis determined to be a basis other than cost shall be considered as having the adjusted basis which property is deemed to have under section 761 (c) (2) and this section. Thus, if the aggregate basis of the assets to the transferor, properly adjusted by the adjustments required by section 115 (1) is $400,000, and if the transferee owns 90 percent of the stock of the transferor half of which was held with a basis other than cost, and receives 90 percent of the aggregate property of the transferor upon the intercorporate liquidation, the aggregate basis of the assets received by the transferee with respect to the shares held with a basis other than cost, for the purposes of section 761, is $180,000 (one-half of 90 percent of $400,000).

§ 30.761–7 *Adjustment of equity invested capital.* If property is received by the transferee in an intercorporate liquidation within the meaning of section 761 (a), the equity invested capital of the transferee for any day following the day in which such intercorporate liquidation is completed shall be computed with the following adjustments:

(a) *Adjustment with respect to stock with cost basis.* With respect to any share of stock in the transferor having in the hands of the transferee, immediately prior to the receipt of the property in the intercorporate liquidation, a basis determined under the provisions of § 30.761–3 to be a cost basis, the earnings and profits or the deficit in earnings and profits of the transferee shall be computed as if, on the day following the completion of the intercorporate liquidation, the transferee had realized a recognized gain equal to the amount of the plus adjustment in respect of such share or had sustained a recognized loss equal to the amount of the minus adjustment in respect of such share, computed under the provisions of section 761 (b) and § 30.761–2. No other amount shall be included pursuant to any provision or rule of law in the earnings and profits of the transferee as a result of the intercorporate liquidation with respect to such share.

(b) *Adjustment with respect to stock with basis other than costs.* With respect to any share of stock in the transferor having in the hands of the transferee, immediately prior to the receipt

of the property in the intercorporate liquidation, a basis determined under the provisions of § 30.761–3 to be a basis other than cost, there shall be treated as an amount includible in the sum specified in section 718 (a) (relating to equity invested capital) for each day following the intercorporate liquidation the amount of the plus adjustment computed with respect to such share under section 761 (b) and § 30.761–2 (a), or as an amount includible in the sum specified in section 718 (b) (relating to reduction in equity invested capital) for each day following the intercorporate liquidation the amount of the minus adjustment computed with respect to such share under section 761 (b) and § 30.761–2 (b).

(c) *Illustration.* The provisions of section 761 may be illustrated by the following example:

Assume that Corporation S was organized on December 31, 1928, with an authorized capital stock of $25,000 consisting of 1,000 shares of common stock with a par value of $25 per share. On that date, in a transaction within the provisions of section 112 (b) (5) of the Revenue Act of 1928, Corporation S issued to Corporation P 600 shares of its stock in exchange for a patent which had an adjusted basis to P of $15,000, and 400 shares of its stock to individuals in exchange for property with an adjusted basis to such individuals of $10,000. The basis to P of the 600 shares of stock of S is determined to be a basis other than cost. Section 113 (a) (6) and § 30.761–3 (b) (1). On December 31, 1931, P purchased for $80,000 in cash the remaining 400 shares of the stock of S which it retained until the liquidation of S on December 31, 1936, under section 112 (b) (6) of the Revenue Act of 1936, an intercorporate liquidation. The date of acquisition of control of S by P was December 31, 1931. Section 30.761–5 (b). On December 31, 1928, the patent acquired by S had a remaining life of 15 years; on December 31, 1931, the date of acquisition of control of S by P, the patent had a fair market value of $72,000. As of December 31, 1931, the fair market value of the remaining assets of S was identical with their adjusted basis.

Comparative balance sheets of S as of December 31, 1931, the date of acquisition of control by P, and as of December 31, 1936, the date of liquidation of S, are as follows:

		December 31, 1931		*December 31, 1936*
Assets:				
Cash		$5,000		$35,000
Current Assets		60,000		120,000
Fixed Assets (less depreciation)		30,000		130,000
Patent	$15,000		$15,000	
Less: Reserve for Amortization	3,000		8,000	
		12,000		7,000
Total Assets		107,000		292,000
Liabilities and capital:				
Current Liabilities		12,000		22,000
Mortgage on Fixed Assets		15,000		10,000
Capital Stock		25,000		25,000
Surplus (earnings and profits)		55,000		235,000
		107,000		292,000

The plus adjustment or the minus adjustment to be made to the invested capital of P resulting from the intercorporate liquidation of S is a direct addition to or subtraction from the equity invested capital of P with respect to the stock of S held with a basis other than cost (section 761 (d) (2)); it is deemed to be a recognized gain or loss to P as of the day following the intercorporate liquidation with respect to the stock of S held with a cost basis (section 761 (d) (1)). Moreover, the determination of the basis of property received with respect to stock held with a basis other than cost (section 761 (c) (2)) differs from the determination of such basis with respect to stock held with a cost basis (section 761 (c) (1)). Two separate computations must therefore be made.

(1) *Stock with a basis other than cost.* With respect to the 600 shares of stock of S held by P with a basis other than cost, P is deemed to have received 60 percent ($^{600}/_{1000}$) of the assets and to have assumed 60 percent of the liabilities of S, as follows:

		Total assets		*Assets received*
Cash		$35,000		$21,000
Current Assets		120,000		72,000
Fixed Assets (less depreciation)		130,000		78,000
Patent	$15,000		$9,000	
Less: Reserve for Amortization	8,000		4,800	
		7,000		4,200
Total		292,000		175,200
		Total liabilities		*Liabilities assumed*
Current Liabilities		$22,000		$13,200
Mortgage on Fixed Assets		10,000		6,000
Total		32,000		19,200

There is a plus adjustment to the equity invested capital of P in the amount of $141,000, computed as follows:

Money received by P	$21,000	
Adjusted basis of all other property received by P	154,200	
Total Assets Received		$175,200
Less:		
Adjusted basis to P of 600 shares of stock of S	15,000	
Aggregate liabilities assumed	19,200	
Total		34,200
Plus Adjustment		141,000

(2) *Stock with a cost basis.* With respect to the 400 shares of stock of S held by P with a cost basis, the basis of the aggregate property of Corporation S is to be recomputed, as of December 31, 1931, the date of acquisition by P of control of S, to accord with the basis of such stock (section 761 (c) (1) (A)), as follows:

Cost basis per share of stock ($80,000 divided by 400)		$200
Number of share units		1,000
Product of cost per share and number of share units		$200,000
Less: Money		5,000
Difference		$195,000
Add: Liabilities:		
Current liabilities	$12,000	
Mortgage on fixed assets	15,000	
		27,000
Basis of aggregate property other than money		$222,000

The excess of the recomputed basis of the aggregate property of S, other than money, over the adjusted basis of such property prior to the recomputation is $120,000 ($222,000 minus $102,000). The only asset which had a fair market value in excess of its adjusted basis prior to the recomputation is the patent. In the recomputation, the basis of the patent is increased by $60,000 under section 761 (c) (1) (A) to its fair market value of $72,000. The remainder of the excess of the recomputed basis of the aggregate property of S other than money over the adjusted basis of such property prior to the recomputation ($120,000 minus $60,000) becomes the basis of an account entitled "Positive Goodwill".

As of December 31, 1931, the adjusted basis and the recomputed basis of the property of S would appear as follows:

Assets:	Adjusted basis		Recomputed basis
Cash		$5,000	$5,000
Current Assets		60,000	60,000
Fixed Assets (less depreciation)		30,000	30,000
Patent	$15,000	$75,000	
Less: Reserve for Amortization	3,000	3,000	
	12,000		72,000
Positive Goodwill			60,000
		107,000	227,000

Pursuant to section 761 (c) (1) (C), the recomputed basis of the patent is to be used in determining all subsequent adjustments to the basis of such asset. Thus, for each of the five years between December 31, 1931, and December 31, 1936, the date of the intercorporate liquidation, the patent will be amortized at $6,000 per year ($72,000 divided by 12); instead of $1,000 per year ($15,000 divided by 15). The total amount included in the Reserve for Amortization will be $33,000 ($3,000 plus $30,000) instead of $8,000 ($3,000 plus $5,000). As of December 31, 1936, P is deemed to have received with respect to the 400 shares of stock of S held with a cost basis 40 percent ($^{400}/_{1000}$) of the assets of S, including the Positive Goodwill account, revalued according to section 761 (c) (1) (A) and (C), and to have assumed 40 percent of the liabilities of S. (Section 761 (c) (1) (E).) The adjusted basis of the property of S as of December 31, 1936, prior to the recomputation and as recomputed, and the portion of the assets deemed to have been received and the liabilities deemed to have been assumed by P, are as follows:

Assets:	Prior to recomputation		As recomputed		Assets received
Cash	$35,000		$35,000		$14,000
Current Assets	120,000		120,000		48,000
Fixed Assets (less depreciation)	130,000		130,000		52,000
Patent	$15,000	$75,000		$30,000	
Less: Reserve for Amortization	8,000	33,000		13,200	
	7,000		42,000		16,800
Positive Goodwill			60,000		24,000
Total	292,000		387,000		154,800

Liabilities:	Total liabilities	Liabilities assumed
Current Liabilities	$22,000	$8,800
Mortgage on Fixed Assets	10,000	4,000
Total	32,000	12,800

There is a plus adjustment deemed to be a recognized gain to P as of January 1, 1937, in the amount of $62,000, computed as follows:

Money received by P	$14,000	
Adjusted basis of all other property received by P	140,800	
Total assets received		$154,800
Less: Adjusted basis to P of 400 shares of stock of S	80,000	
Aggregate liabilities assumed	12,800	
Total		92,800
Plus adjustment		62,000

The unadjusted basis to P of the property received from S in the intercorporate liquidation is computed as follows:

	Basis with respect to 600 shares		Basis with respect to 400 shares		Total
Cash	$21,000		$14,000		$35,000
Current assets	72,000		48,000		120,000
Fixed assets (less depreciation)	78,000		52,000		130,000
Patent	$9,000	$30,000		$39,000	
Less: Reserve for Amortization	4,800	13,200		18,000	
	4,200		16,800		21,000
Positive Goodwill	----		24,000		24,000
Total	175,200		154,800		330,000

For the purpose of computing the earnings and profits and the adjusted basis of the patent received from S in the intercorporate liquidation to be used in the determination of the invested capital of P for each excess profits tax taxable year beginning after December 31, 1941 (or for excess profits tax taxable years beginning in 1940 or 1941 if P were to elect to comput the adjustments to its equity invested capital under section 761 for such years (see § 30.761-9)), the patent would be deemed to have an unadjusted basis to P of $21,000 as of January 1, 1937, and the annual amount of amortization from that date would be $3,000 ($21,000 divided by 7) instead of $1,000, the amount of amortization taken by S.

§ 30.761-8 *Invested capital basis.* For the purpose of computing any amount entering into the computation of the invested capital of the transferee, or of any other corporation the computation of the invested capital of which is determined by reference to the basis of property in the hands of the transferee, the adjusted basis which property received by the transferee in an intercorporate liquidation is deemed to have at the time of its receipt by the transferee, determined under section 761 (c) and § 30.761-5, shall be thereafter treated as the adjusted basis of such property in lieu of any other basis otherwise prescribed. Thus, items of depreciation or depletion or any other items computed by reference to the basis of property received in an intercorporate liquidation shall, for the purpose of computing the invested capital of the transferee, be determined by reference to the adjusted basis of such property in the hands of the transferee computed under section 761 in lieu of any basis prescribed by section 113 or any other provision or rule of law. Likewise, the adjusted basis of stock or other assets received by the transferee in an intercorporate liquidation shall, for the purpose of determining the ratio of inadmissible assets to total assets under section 720 (b), be the adjusted basis as provided in section 761 (c) in lieu of the basis determined under section 113. So also, for the purpose of determining the earnings and profits resulting from a sale or other disposition of an asset received in an intercorporate liquidation the adjusted basis of such asset shall be the adjusted basis as provided in section 761 (c).

§ 30.761-9 *Optional retroactivity of section 761 to taxable years beginning in 1940 and 1941.* The provisions of section 761 are retroactively applicable to all excess profits tax taxable years beginning in 1940 and 1941 at the option of the taxpayer. If the taxpayer elects to have the provisions of section 761 applied retroactively, such provisions shall be applicable to all excess profits tax taxable years beginning after December 31, 1939; the taxpayer may not elect to have the provisions of section 761 applied with respect to one or more excess profits tax taxable years beginning in 1940 or 1941 but not to all such taxable years.

If the taxpayer elects to have the provisions of section 761 retroactively applied to taxable years beginning in 1940 and 1941, it shall file with the Commissioner of Internal Revenue, Washington, D. C., on or before March 15, 1944, a notice of its election accompanied by a recomputation of its income and excess profits taxes for the year or years involved. If the recomputation results in an overpayment for any of such years, the taxpayer should file a claim for refund on Form 843 in accordance with the provisions of section 322. The notice

of election shall also be accompanied by a statement setting forth all facts pertinent to the intercorporate liquidation, including:

(a) A certified copy of the plan of liquidation, and of the resolutions under which the plan was adopted and the liquidation was authorized, together with a statement showing in detail all transactions incident to or pursuant to the plan;

(b) A statement as to the cost or other basis of the stock of the liquidated corporation, the ownership of all classes of stock of such corporation, the number of shares in each class, the percentage owned, and the voting power of each share at the date of the adoption of the plan of liquidation and at all times since, to and including the date of the distributions in liquidation;

(c) If the basis of the stock of the liquidated corporation is determined to be a cost basis, balance sheets of such corporation together with such data as is prescribed in paragraph (b) submitted as of the date of acquisition of control of such corporation by the taxpayer and as of the date of acquisition of any additional shares of stock of the liquidated corporation acquired with a cost basis after the acquisition of control;

(d) A list of all properties of the liquidated corporation received in the intercorporate liquidation and a list of all liabilities of such corporation assumed as well as liabilities not assumed to which the property so received was subject;

(e) A statement as to any other consideration other than the stock with respect to which the property was received given to the liquidated corporation for the property received;

(f) A statement of the facts by reference to which the basis of the stock of the liquidated corporation is determined to be a cost basis or a basis other than cost.

In the case of any taxable year beginning in 1940 or 1941 with respect to which the provisions of section 761 have been made retroactively applicable, section 718 (a) (5) (relating to increase in equity invested capital on account of gain on tax-free liquidation), section 718 (b) (4) (relating to reduction in equity invested capital on account of loss on tax-free liquidation), and section 718 (c) (4) (relating to property paid in for stock in merger or consolidation) shall not apply to computations required under section 761.

(Sec. 62 of the Internal Revenue Code (53 Stat. 32; 26 U.S.C. 62) as made applicable by sec. 729 (a) of the Internal Revenue Code (54 Stat. 989; 26 U.S.C. 729 (a)), and sec. 230 (a) and (d) of the Revenue Act of 1942 (Public Law 753, 77th Conress))

[SEAL] HAROLD N. GRAVES,
Acting Commissioner of Internal Revenue.

Approved: October 23, 1943.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 43-17253; Filed, October 25, 1943; 10:45 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VI—Selective Service System

[No. 218]

REQUEST FOR INFORMATION CONCERNING DISCHARGE OF SERVICEMEN; REQUEST FOR EXAMINATION BY MEDICAL ADVISORY BOARD

ORDER PRESCRIBING FORMS

By virtue of the provisions of the Selective Training and Service Act of 1940 (54 Stat. 885, 50 U.S.C., App. and Sup. 301 et seq.); E.O. No. 8545, 5 F.R. 3779, E.O. No. 9279, 7 F.R. 10177, and the authority vested in me by the Chairman of the War Manpower Commission in Administrative Order No. 26, 7 F.R. 10512, I hereby prescribe the following change in DSS forms:

Addition of a new form designated as DSS Form 177, entitled "Request for Information Concerning Discharge of Servicemen," effective immediately upon the filing hereof with the Division of the Federal Register.[1]

Addition of a new form designated as DSS Form 178, entitled "Request for Examination by Medical Advisory Board," effective immediately upon the filing hereof with the Division of the Federal Register.[1]

The foregoing additions shall become a part of the Selective Service Regulations effective immediately upon the filing hereof with the Division of the Federal Register.

LEWIS B. HERSHEY,
Director.

OCTOBER 2, 1943.

[F. R. Doc. 43-17270; Filed, October 25, 1943; 2:11 p. m.]

[1] Form filed as part of the original document.

Chapter IX—War Production Board

Subchapter B—Executive Vice-Chairman

AUTHORITY: Regulations in this subchapter issued under sec. 2 (a), 54 Stat. 676, as amended by 55 Stat. 236 and 56 Stat. 176; E.O. 9024, 7 F.R. 329; E.O. 9125, 7 F.R. 2719; W.P.B. Reg. 1 as amended March 24, 1943, 8 F.R. 3666, 3696; Pri. Reg. 1 as amended May 15, 1943, 8 F.R. 6727.

PART 1038—GRAPHITE

[Supplementary Order M-61-a as Amended October 26, 1943]

GRAPHITE CRUCIBLE SIMPLIFICATION

The fulfillment of the requirements for the defense of the United States has created a shortage in the supply of graphite for defense, for private account and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense.

§ 1038.2 *Supplementary Order M-61-a*—(a) *Purpose of order.* This order prohibits the manufacture of certain sizes of standard crucibles and prohibits the manufacture of all other crucibles of size and shape other than those now being made.

(b) *Definition.* For the purposes of this order, a "standard graphite crucible" means any crucible made from any type or grade of graphite, and which is known in the trade as being of standard shape and of standard size. All other graphite crucibles are referred to as special crucibles.

(c) *Limitation on manufacture.* (1) No person shall mold or shape any standard graphite crucibles of the sizes listed in Schedule A annexed hereto. Nothing contained in this order, however, shall prevent a person from delivering, or accepting delivery of, any graphite crucibles which had been molded or shaped prior to the 27th day of July, 1943.

(2) No person shall mold or shape any special crucibles of size or shape other than those which had been molded or shaped by any crucible manufacturer prior to the 27th day of July, 1943.

(d) *Appeals.* Appeals from provisions of this order shall be made by filing a letter in triplicate stating fully the grounds for the appeal.

(e) *Violations.* Any person who wilfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any Department or Agency of the United States, is guilty of a crime and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(f) *Communications.* All communications concerning this order shall, unless otherwise directed, be addressed to War Production Board, Mica-Graphite Division, Washington 25, D. C., Ref.: M-61-a.

Issued this 26th day of October 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

SCHEDULE A—PROHIBITED SIZES OF STANDARD CRUCIBLES

0	5
00	7
000	9
¼	12
½	14
¾	18
1¼	25
1½	35
1¾	45
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[F. R. Doc. 43-17355; Filed, October 26, 1943; 11:50 a. m.]

PART 1226—GENERAL INDUSTRIAL EQUIPMENT[1]

[General Limitation Order L-172, as Amended Oct. 26, 1943]

The fulfillment of requirements for the defense of the United States has created a shortage in the production of heat exchangers for defense, for private account and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1226.47[1] *General Limitation Order L–172*—(a) *Definitions.* For the purpose of this order:

(1) "Person" means any individual, partnership, association, business trust, corporation, governmental corporation or agency, or any organized group of persons, whether incorporated or not, and includes the Army and Navy of the United States, the Maritime Commission, the War Shipping Administration, the Office of Lend-Lease Administration and the Office of Economic Warfare.

(2) "Manufacturer" means any person who constructs, manufactures or assembles critical heat exchangers to the extent that he is engaged in such construction, manufacture or assembly; and shall include sales and distribution outlets and agencies controlled by such person. The term shall also include any person who purchases or otherwise acquires materials for manufacture or assembly into critical heat exchangers by his subcontractor, and resale by such person.

(3) [Deleted Oct. 26, 1943]

(4) [Deleted Oct. 26, 1943]

(5) "Group II critical heat exchanger" means any new equipment or apparatus consisting of an assembly, bundle or nest of one or more bare or finned tubes (metallic or non-metallic) or metal plates, and including any shell or pressure vessel to contain the same, designed for the transfer or exchange of heat between two or more fluids; (liquids, gases or vapors), except the following: (i) Any equipment or apparatus which is direct fired or installed within a flue gas passage; (ii) Any equipment or apparatus which permits direct contact involving physical mixing of the fluids (other than direct contact boiler feed water heaters); (iii) Any steam surface condenser designed to condense exhaust steam from a prime mover to maintain a minimum exhaust pressure; (iv) Any heat exchanger for use on aircraft; (v) Any radiator-type coolers; (vi) Unit heaters, convectors, unit ventilators, unit coolers and blast coils, if such items are for space heating or cooling or industrial space heating or drying; (vii) Any direct water heater commonly referred to as a storage water heater consisting of a heating element installed in a hot water storage tank for the purpose of heating and storing hot water for any use, and any indirect water heater consisting of a coil or a nest of tubes installed in a shell or pressure vessel having a diameter 12" or less (if other than circular in cross section and internal cross sectional area 113 sq. in. or less), used for the purpose of supplying hot water for a "hot water space heating system"; (viii) Any heat exchanger of a non-metallic construction for use in a chemical experimental laboratory; (ix) Any new heat exchanger equipment when manufactured and delivered by the manufacturer thereof as a necessary integral part of, and together with, other equipment (not heat exchanger) also manufactured by him, or for replacement in equipment so manufactured and delivered, except, however, that the term does not include the following (which are classified as Class Y products under General Scheduling Order M-293 as amended September 17, 1943):

(a) Any heat exchanger incorporating into its construction (other than gaskets and bolting) any metal other than plain carbon steel and cast iron, and which has a sales price of over five hundred dollars ($500), for any use other than aboard ships;

(b) Any heat exchanger requiring delivery in less than six months after date of acceptance of the order by the manufacturer, having a sales price of over five hundred dollars ($500), for any use other than aboard vessels of the United States Navy.

(6) [Deleted Oct. 26, 1943]

(b) [Deleted Oct. 26, 1943]

(c) [Deleted Oct. 26, 1943]

(d) *Placing and acceptance of orders for critical heat exchangers.*

(1) [Deleted Oct. 26, 1943]

(2) *Group II exchangers.* (i) No person shall place an order with a manufacturer, and no manufacturer shall accept an order, for any Group II critical heat exchanger unless such order bears a preference rating of AA-5 or higher. Each prospective purchaser shall request delivery during a designated calendar month, which in no case shall be earlier than is essential for his purposes. No manufacturer shall accept any order which fails to specify the month in which delivery is required.

(ii) Any order for a Group II critical heat exchanger bearing a preference rating of AA-5 or higher shall be accepted by the manufacturer with whom it is placed, as required by Priorities Regulation No. 1: *Provided, however,* That the manufacturer shall not accept such an order (unless it is rated AAA) if he knows or has reasonable cause to believe that he will be unable to make delivery during the calendar month required and without causing delay in his delivery of any previously accepted orders for critical heat exchangers. (If rated AAA, the lower rated Group II orders which the manufacturer has not already reported on his required delivery schedule, will be displaced in accordance with Priorities Regulation No. 1).

(3) [Deleted Oct. 26, 1943]

(e) *Effect on authorizations.* The amendment of this order on October 26, 1943, shall not constitute a revocation of any authorization which has been issued by the War Production Board pursuant thereto, prior to that date.

(f) *Miscellaneous provisions*—(1) *Applicability of regulations.* This order and all transactions affected thereby are subject to all applicable regulations of the War Production Board, as issued and amended from time to time.

(2) *Violations.* Any person who wilfully violates any provisions of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, materials under priority control, and may be deprived of priorities assistance.

(3) [Deleted Oct. 26, 1943]

(4) *Appeals.* Any appeal from the provisions of this order, or any direction thereunder, shall be made by filing a letter in triplicate, referring to the particular provision appealed from and stating fully the grounds of the appeal.

(5) *Communications.* All reports to be filed and other communications concerning this order should be addressed to: War Production Board, General Industrial Equipment Division, Washington 25, D. C., Ref.: L–172.

Issued this 26th day of October 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43–17356; Filed, October 26, 1943; 11:50 a. m.]

PART 1226—GENERAL INDUSTRIAL EQUIPMENT

[General Limitation Order L–193 as Amended Oct. 26, 1943]

CONVEYING MACHINERY AND MECHANICAL POWER TRANSMISSION EQUIPMENT

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of certain critical materials, and in the engineering and other facilities, used in the manufacture of conveying machinery and mechanical power transmission equipment, for defense, for private account, and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1226.52 *General Limitation Order L–193*—(a) *Definitions.* For the purpose of this order:

(1) "Person" means any individual, partnership, association, business trust, corporation, governmental corporation or agency, or any organized group of persons whether incorporated or not.

(2) "Conveying machinery" means any new machinery (and any important component part thereof) used for the mechanical handling of materials; except (i) belting, (ii) farm machinery,

[1] Formerly Part 3020, § 3020.1.

(iii) machinery or parts used on board ship in the operation of any vessel owned or operated by the Army, Navy, Maritime Commission, or War Shipping Administration, or used in the operating of aircraft, tanks, ordnance, or similar combat equipment, (iv) power and hand lift trucks, (v) cranes, hoists and platform elevators, (vi) construction mixers, pavers, graders, drag lines and power shovels, and similar construction machinery, (vii) cars and car dumpers, (viii) steel mill tables, (ix) sintering conveyors, (x) metal pig conveyors, (xi) underground mining machinery including slope conveyors, and (xii) portable conveyors as defined in Limitation Order L-287.

(3) "Mechanical power transmission equipment" means new equipment (and any important component part thereof) of the following kinds (except equipment or parts used in the operation of any vessel owned or operated by the Army, Navy, Maritime Commission, or War Shipping Administration, or used in the operation of aircraft, tanks, ordnance or similar combat equipment):

(i) Open and enclosed gearing for transmitting more than ¼ horsepower; except marine propulsion gears, gears manufactured by a person for incorporation into other machinery also produced by him, gears built into turbines, and gears used on household, manually powered, automotive, or farm machinery;

(ii) Mechanical drives and parts thereof for transmitting more than ¼ horsepower; except belting, drives manufactured by a person for incorporation into other machinery also produced by him, and drives used on household, manually powered, automotive, or farm machinery.

(4) "Order" includes any arrangement for the delivery of conveying machinery or mechanical power transmission equipment, whether by purchase and sale, lease, rental or otherwise.

(5) [Deleted Oct. 26, 1943]

(6) [Deleted Oct. 26, 1943]

(7) "Manufacture" means fabrication or shop assembly of conveying machinery or mechanical power transmission equipment, or any component part thereof; but does not include the making of engineering drawings, blue prints, designs, estimates, or surveys.

(8) [Deleted Oct. 26, 1943]

(9) "Anti-friction bearings" means all types of ball, needle and roller bearings.

(b) *Restrictions on acceptance of orders.*

(1) [Deleted Oct. 26, 1943]

(2) [Deleted Oct. 26, 1943]

(3) On and after May 15, 1943 no person shall accept any order for any conveying machinery or mechanical power transmission equipment unless the order is rated AA-5 or higher. This restriction shall not apply to orders under which unused machinery or equipment is returned to the person from whom it was purchased.

(4) [Deleted Oct. 26, 1943]

(c) *Restrictions on manufacture and delivery.*

(1) [Deleted Oct. 26, 1943]

(2) Except as otherwise provided in paragraph (c) (3) hereof, on and after October 7, 1942 no person shall manufacture or deliver, and no person shall knowingly accept the delivery of, any conveying machinery or mechanical power transmission equipment, or parts therefor, unless such machinery or equipment or parts are manufactured in accordance with the restrictions on the use of materials prescribed in Schedule A hereto: *Provided, however,* That parts fabricated or processed, prior to October 7, 1942 to the point where other use is impracticable, may be used in fulfillment of any order at any time.

(3) The limitations and restrictions of paragraph (c) shall not apply:

(i) To the manufacture or delivery of any conveying machinery or mechanical power transmission equipment in the process of manufacture on October 7, 1942 in fulfillment of any order accepted by the manufacturer prior to August 1, 1942.

(ii) For ninety days following October 7, 1942, to the manufacture or delivery of any conveying machinery or mechanical power transmission equipment in the process of manufacture on October 7, 1942 in fulfillment of any order accepted by the manufacturer on or after August 1, 1942 but prior to October 7, 1942.

(iii) For ninety days following October 7, 1942, to the manufacture or delivery in fulfillment of any order for the use of the Army, Navy, Maritime Commission or War Shipping Administration, to the extent that any applicable specifications of the Army, Navy, Maritime Commission, or War Shipping Administration, require construction, design, or materials not in accordance with the provisions of this order. As used herein, the terms "Army", "Navy", "Maritime Commission" or "War Shipping Administration" shall not include any privately operated plant or shipyard financed by or controlled by any of those organizations, or operated on a cost-plus-fixed-fee basis. For the purposes of this paragraph (c) an order for machinery or equipment shall be deemed to have been in the process of manufacture on October 7, 1942 only if fabrication or assembly of a component part, in fulfillment of such order and not for inventory or stock, was begun prior to October 7, 1942.

(d) [Deleted Oct. 26, 1943]

(e) [Revoked May 10, 1943]

(f) *Miscellaneous provisions.*

(1) [Deleted Oct. 26, 1943]

(2) [Deleted Oct. 26, 1943]

(3) *Other limitation orders.* Nothing in this order shall be construed to permit any person to sell, deliver, or otherwise transfer, or any manufacturer to purchase, receive delivery of or otherwise acquire any raw materials, semi-processed parts, or finished products in contravention of the terms of any L or M order, or amendments or supplements thereto, or other regulation of the War Production Board effective at the date of any such sale, delivery, or other transfer. Where the limitations imposed by any other L or M order are applicable to the subject matter of this order, the most restrictive limitation shall apply, unless otherwise specifically provided herein.

(4) *Violations.* Any person who wilfully violates any provision of this order, or who wilfully furnishes false information to the War Production Board in connection with this order is guilty of a crime and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using material under priority control and may be deprived of priorities assistance by the War Production Board.

(5) *Appeals.* Any person affected by this order who considers that compliance therewith would work an exceptional and unreasonable hardship upon him may appeal to the War Production Board setting forth the pertinent facts and the reasons he considers he is entitled to relief. The War Production Board may thereupon take such action as it deems appropriate.

(6) *Communications.* All reports required to be filed hereunder, and all communications concerning this order, shall, unless otherwise directed, be addressed to: War Production Board, General Industrial Equipment Division, Washington 25, D. C. Ref.: L-193.

Issued this 26th day of October 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

SCHEDULE A—RESTRICTIONS AND LIMITATIONS ON THE USE OF MATERIALS IN CONVEYING MACHINERY OR MECHANICAL POWER TRANSMISSION EQUIPMENT

(a) As used in this schedule, (1) "alloy steel" and "alloy iron" mean alloy steel and alloy iron as defined in Order M-21-a, as amended and supplemented from time to time; and (2) "line shafting" means any shaft driving two or more machines or any single length or rigidly coupled lengths of shafting supported by three or more bearings.

(b) *Conveying machinery.* The materials listed below are restricted or prohibited in the construction of conveying machinery, as prescribed below; except as the War Production Board may waive compliance with any such restriction or prohibition, upon application by the manufacturer or purchaser by letter or other communication, setting forth pertinent facts disclosing the necessity for such waiver.

(1) *Bins, bunkers, hoppers and tanks (when used as part of conveying machinery or equipment).* No metal shall be used in bins, hoppers, tanks, or bunkers having a capacity of more than 400 cubic feet, level filled, except in clips, gussets, bolts, nuts, screws, lag screws, hinges, tension rods, reinforcing bars or mesh, washers, and hopper bottoms of less than 400 cubic feet capacity. No steel plate of a thickness in excess of ¼ inch shall be used in bins, tanks, or hoppers with a capacity of less than 400 cubic feet, level filled. No liner plates of steel or rubber shall be used in steel bins, steel tanks, or steel hoppers. Steel liners for wood bins or wood bunkers shall not exceed No. 10 U. S. gage in thickness.

(2) *Conveyors and elevators.* No alloy steel or alloy iron shall be used for parts of chains (other than chains for the transmission of power); except for (i) pins and bushings in steel conveyor chains or cast sprocket chains, or (ii) chains used in the heat zone of heat treating and metallurgical furnaces, to the

extent permitted under Order M-21-g. No bushings other than carbon steel or gray iron shall be inserted in bores of conveyor chain rollers.

(3) *Conveyor and elevator sprockets.* No alloy steel or alloy iron shall be used in chain sprocket wheels, except for sprockets to be used in the heat zone of heat treating and metallurgical furnaces, to the extent permitted under Order M-21-g.

(4) *Conveyor structures.* (i) No metal, except for steel in clips, bearing brackets, gussets, bolts, nuts, screws, lag screws, hinges, tension rods, reinforcing bars, reinforcing mesh, and washers, shall be used in the following structural parts:

(A) Supports for fixed conveyor frames, except supports for gravity, live roll and package conveyors when the height of the support does not exceed 36 inches.

(B) Fixed bulk material belt conveyor frames (including stringers).

(C) Conveyor galleries.

(D) Belt conveyor decking.

(E) Walkways, toe boards, handrails, stairways, and platforms.

(F) Guards or housing used only for protection, except those used for mechanical power transmission drives.

(G) Bucket elevator casings; except corner angle iron for self-supporting casings, and boot lining and loading legs, where such corner angle iron for self-supporting casings and boot lining and loading legs do not exceed ¼" in thickness, and except also for the repair of such existing casings where any metal part is replaced with a metal part which does not contain metal in a greater amount or in a greater thickness than in the replaced part, and which does not involve the use of alloy steel for the replacement of any carbon steel part or material.

(H) Troughs or trough covers for fixed flight, drag, scraper or screw conveyors; except where liquids or semi-liquids are being conveyed, or where the trough is a structural member of the supporting framework; and except for materials or parts used for repairs to such troughs or trough covers. The above mentioned exception for repairs shall not be construed to permit the replacement of nonmetallic parts with metal parts, the use of steel to a greater extent or with a greater thickness than used in the part being repaired or replaced, or the use of alloy steels for the replacement of carbon steel materials.

(I) Continuous stream, conduit elevator-conveyor casings; except for (1) terminal sections, (2) curved sections, (3) straight casings for carrying strands only, and (4) wearing bars for return strands only: *Provided, however,* That no steel exceeding 3/16" in thickness shall be used in the manufacture of such exempted items (1), (2), (3), and (4). The limitations of this clause (I) shall not apply, however, to replacement parts for the repair of existing casings where a metal part is replaced with a part which does not contain metal in a greater amount or in a greater thickness than in the replaced part, and which does not involve the use of alloy steel for the replacement of any carbon steel part or material.

(ii) Trough linings for fixed conveyors shall not exceed No. 10 U. S. gage in thickness.

(iii) Steel for chutes and spouts shall not exceed 3/16 inch in thickness.

(iv) No steel liner plates shall be used in steel chutes or steel spouts, and no crude, reclaimed or synthetic rubber liner plates shall be used except as permitted in Rubber Order R-1 as amended, or any relief granted pursuant to appeal taken in accordance with the provisions of such order.

(v) Steel linings for wood chutes or wood spouts shall not exceed No. 10 U. S. gage in thickness.

(vi) No copper bearing sheets or plates shall be used.

(vii) Steel troughing belt carriers and steel return belt idler rolls shall not exceed 5 inches nominal diameter on idlers up to 42 inches; and shall not exceed 6 inches on idlers 42 inches and over; provided that this limitation shall not apply to parts used for repair or replacement purposes.

(c) *Mechanical power transmission equipment.* The materials listed below are restricted or prohibited in the construction of mechanical power transmission equipment as prescribed below; except as the War Production Board may waive compliance with any such restriction or prohibition, upon application by the manufacturer or purchaser by letter or other communication, setting forth pertinent facts disclosing the necessity for such waiver.

(1) *Anti-friction bearings.* (i) Anti-friction bearings shall not be used in hangers, pillow blocks, loose pulleys, and clutch pulleys for line shafting except for the following purposes, as certified by the purchaser:

(A) The reduction or elimination of fire hazards resulting from the combustible nature of the material being processed.

(B) Reduction or elimination of waste due to spoilage.

(C) Reduction of starting or running loads where the use of anti-friction bearings will correct an overload pertaining to the primary source of power

(D) The repair or replacement of bearings for line shafting: *Provided, however,* That no anti-friction bearings shall be used for repair or replacement purposes for line shafting not previously equipped with such bearings.

The above mentioned certification by the purchaser shall be included in or shall accompany the purchase order, shall be signed by a duly authorized official of the purchaser, and shall be in the following form:

"The undersigned hereby certifies that the anti-friction bearings covered by order ------ (here give order number or other pertinent description) are for the following purposes as permitted by the provisions of Item (c) (1) of List A to Order L-193:

(here fill in the purposes for which the bearings will be used)

---------- Company

By ----------"

Such certification shall be deemed a representation to the War Production Board as well as to the supplier to whom the order is tendered.

(ii) No alloy steel or alloy iron shall be used in bearing housings.

(2) *Bearings.* No alloy steel or alloy iron shall be used in base, cap or liner castings for sleeve bearings; or in bearing hangers, base plates, floor stands, or wall brackets for line shafting.

(3) *Chains.* (i) No alloy steel or alloy iron shall be used in cast sprocket chains

(ii) No alloy steel shall be used in semi-finished or finished roller chain, bushed drive chain, or silent chain except in those parts thereof which the manufacturer made of alloy steel prior to January 21, 1943.

(4) No alloy steel or alloy iron shall be used in chain sprocket wheels.

(5) *Shafting appliances.* No alloy steel or alloy iron shall be used in the construction of shafting appliances in rigid couplings, collars, or pulleys and sheaves.

(6) *Gears.* No alloy steel or alloy iron shall be used in cast teeth or molded teeth gears and pinions or in gear housings.

(d) *Rust proofing.* No metallic plating or coating shall be used in the rust proofing of conveyor machinery or mechanical power transmission equipment, except that galvanizing may be used to prevent contamination of food or in the case of anchor bolts set in concrete and subject to corrosive chemical action.

[F. R. Doc. 43-17357; Filed, October 26, 1943; 11:51 a. m.]

PART 1226—GENERAL INDUSTRIAL EQUIPMENT

[General Limitation Order L-273 as Amended Oct. 26, 1943]

BUSWAYS

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of copper and other materials for defense, for private account and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1226.87[1] *General Limitation Order L-273*—(a) *Definitions.* For the purpose of this order:

(1) "Person" means any individual, partnership, association, business trust, corporation, governmental corporation or agency, or any organized group of persons, whether incorporated or not.

(2) "Manufacture" means to fabricate, process or assemble materials into busway.

(3) "Busway" means any bus duct, busway, or other device for the transmission and distribution of electric energy at 600 volts or less, and consisting of prefabricated (factory fabricated) sections or units made up of rigid copper conductors of any shape or arrangement, separated by insulators or insulating material and enclosed in a case or attached to a supporting framework, and assembled into a connected system in the course of installation, and includes plug-in devices, feed-in boxes, over-current protective devices, and any other parts designed for use therewith.

(i) "Plug-in type busway" means busway having a case (or framework) designed primarily to afford protection against accidental contact and/or extra rigidity for use with plug-in devices; and

(ii) "Feeder type busway" means busway having a case (or framework) affording mechanical protection and rigidity for the support normally required, but designed primarily to assure maximum current carrying capacity without excessive temperature rise.

(iii) The term "busway" shall not include

(*a*) Busway designed for use with movable or rolling trolleys; or

(*b*) Busway having a cross-sectional area per conductor of less than 50,000 circular mills; or

(*c*) Extensions of any size or type of busway or conductors not exceeding ten feet in length furnished as an integral part of a switchboard, panelboard, or distribution transformer bank; or

(*d*) Step type busway designed to be used as a distribution center wherein provision is made to tap branch circuit wiring to over-current protective devices directly from the busway conductors through the use of lugs bolted on such

[1] Formerly Part 3212, § 3212.1.

conductors, and not having provision for the use of plug-in devices.

(b) *Restrictions on acceptance of orders, and deliveries.* On and after April 5, 1943, no manufacturer, dealer or other person shall accept any order for any new busway, or deliver any busway under any order tendered before or after that date, unless such order bears a preference rating of AA-5 or higher.

(c) *Restrictions on mechanical and electrical design.* Except as otherwise provided in paragraph (d) of this order, no person shall manufacture or deliver, and no person shall accept delivery of, any busway which is not manufactured in accordance with the following restrictions:

(1) (i) *Plug-in type busway.* No person shall manufacture any plug-in type busway having any line or phase copper conductors of any size except the sizes designated below, and such busway shall not contain more than the specified quantities of steel per linear foot:

Reference No.	Nominal ampere rating	Copper circular mill area for conductor	Conductor tolerance	Steel maximum lbs. per linear foot
Plug-in type			*Percent*	
1	250	134,000	±5	4.5
2	400	201,000	±5	4.5
3	600	472,000	±5	4.5

Provided, that no person shall manufacture any such busway, with provision for the use of plug-in devices, of larger size or capacity than Size No. 3 above unless and until specifically authorized to do so by the War Production Board pursuant to paragraph (d) of this order; and if authorized, the sizes of copper conductors used shall conform to the conductor sizes, and the steel used therein per linear foot shall not exceed the quantities specified below for corresponding sizes of feeder type busway.

(ii) *Feeder type busway.* No person shall manufacture any feeder type busway having any line or phase copper conductors of any size except the sizes designated below, and such busway shall not contain more than the specified quantities of steel per linear foot:

Reference No.	Nominal ampere rating	Copper circular mill area per conductor	Conductor tolerance	Steel maximum lbs. per linear foot
Feeder Type			*Percent*	
1	250	134,000	±5	4.5
2	400	301,000	±5	4.5
3	600	472,000	±5	4.5
4	800	637,000	±5	6.0
5	1,000	957,000	±5	6.0
6	1,350	1,273,000	±5	7.0
7	1,600	1,480,000	±5	8.0
8	2,000	1,914,000	±5	8.0
9	3,000	3,190,000	±5	9.0
10	4,000	5,104,000	±5	10.0

Provided, that no person shall manufacture any feeder type busway in Sizes 9 or 10 above unless and until specifically authorized to do so by the War Production Board, pursuant to paragraph (d) of this order, after it has been demonstrated to the satisfaction of the latter that the use of runs of smaller size feeder type busway would not be practicable.

(iii) For the purpose of this order, the "nominal ampere rating" shall be deemed to indicate the approximate capacity of the designated size of busway under average installation conditions and continuous operation, but shall not be construed to prohibit the use of the designated size for carrying a load in excess of, or less than, such nominal ampere rating; and the "steel maximum lbs. per linear foot" shall mean the permitted average weight in pounds of steel per linear foot included in the case (or framework), insulator supports, covers, nuts, bolts, straps, and other hardware, but excluding any hangers, or other supporting members which are used for attaching the busway to the structure in which installed.

(2) (i) No person shall manufacture more than one model or design of plug-in type busway, or of feeder type busway, in any of the sizes provided for under the preceding paragraph (c) (1), except that any person may produce not more than two models or designs in Size No. 1 of plug-in type busway. The use of any of the following types or arrangements of busway parts shall not be deemed to constitute a separate model or design within any of the sizes provided for under the preceding paragraph (c) (1):

(*a*) Conductors in single phase, two pole; three phase, three pole; three phase, four wire; two phase, four wire, or two phase, five wire;

(*b*) Use, or non-use, of plug-in or ventilating openings in Sizes No. 1 to No. 3 inclusive, of any busway;

(*c*) Use of additional sealing compound to afford weatherproof construction;

(*d*) Variations in length of sections, or in size or shape of such associated fittings as elbows, crosses, tees, connections between busway sections of different sizes or types, or special end construction to fit switchboards, panelboards and other devices not a part of the busway system.

(ii) After April 24, 1943, no person shall manufacture any plug-in type or feeder type busway, in any size, or of any design or model, unless and until he has first filed with the War Production Board by letter, in triplicate, a description of the size and model or design of such busway. Such description shall clearly set forth the following information with regard to such busway:

(*a*) Nominal cross-sectional dimensions of line or phase copper conductors;

(*b*) Average weight in pounds of steel used per linear foot, computed in accordance with (c) (1) (iii) above;

(*c*) Insulator spacing when ten foot sections are used;

(*d*) Type of plating or finish used on bus bar;

(*e*) Type of paint or finish used on case or framework;

(*f*) Case design with nominal dimensions and thickness, U. S. S. gauge, of the busway case (or framework).

The models or designs so described shall constitute the standard models or designs adopted by the manufacturer as those which he proposes to manufacture in accordance with paragraph (c) (2) (i) above.

(iii) Except as permitted under paragraph (c) (2) (i), no person shall alter or change any such model or design manufactured by him to such an extent that it does not substantially conform to the description adopted and furnished by him pursuant to this order, or manufacture any busway of any other model or design for any particular installation, unless and until he has been specifically authorized to do so by the War Production Board, pursuant to paragraph (d) of this order, after it has been demonstrated to the satisfaction of the latter that such change of the standard model or design would result in the conservation of additional quantities of steel or other critical materials, or the more effective utilization of labor or production facilities without increase in the use of such materials, or that the manufacture of an exceptional model or design is essential on account of the exceptional installation conditions of the particular installation.

The application for such specific authorization shall be made by letter, in triplicate, and shall include a description of the proposed model or design as specified above under (c) (2) (ii). If such authorization is granted, all busway manufactured pursuant thereto shall be in conformity with such description, and if a new standard model or design is thereby established in any size for a particular manufacturer, such model or design shall replace his former model or design in such size.

(3) No person shall manufacture any feeder type busway unless it is so designed that any designated size will carry, under continuous duty, a full power load equivalent to the nominal ampere rating for such size as indicated under paragraph (c) (1) (ii) above, and without exceeding a temperature rise of 70° C. in any part of the conductors when the busway is so placed in various horizontal positions that the maximum temperature rise in any conductor is attained at the heat saturation point (when measured for "hot-spot" temperatures in accordance with American Institute of Electrical Engineers Standards, "A. I. E. E. No. 1, June 1940").

(4) No person shall manufacture any plug-in type or feeder type busway which contains in, or as a plating or finish on, the case (or framework), nuts, bolts, washers, name plates or identification plates any of the following materials: aluminum, copper, chromium, nickel, cadmium, or zinc, or alloys thereof.

(d) *Authorizations.* Application for authorization by the War Production Board under paragraphs (c) (1) (i), or (c) (1) (ii), or for a particular installation under (c) (2) (iii) above, shall be made by the manufacturer, by letter, in triplicate, setting forth facts sufficient to enable the War Production Board to determine the necessity or justification for such an authorization.

(e) *Exemptions.* The restrictions and limitations of paragraph (c) of this order shall not apply:

(1) To the manufacture and delivery of any plug-in type or feeder type busway delivered pursuant to an order accepted prior to April 5, 1943, provided such delivery is made prior to May 24, 1943.

(2) To the use of component parts of busway which on April 5, 1943, had been fabricated or processed to the extent that use in conformity with this order would be impractical; or

(3) Until 90 days after April 5, 1943, to the manufacture or delivery of any busway to be delivered for the direct use of, the Army, Navy, Maritime Commission, or War Shipping Administration, to the extent that any applicable specifications of any such organization require construction, design or materials not in accordance with the provisions of this order. As used in this paragraph, the terms "Army", "Navy", "Maritime Commission", and "War Shipping Administration" shall not include any privately operated plants or shipyards financed by any of those organizations, or operated on a cost-plus-fixed-fee basis.

(f) *Miscellaneous provisions*—(1) *Applicability of regulations.* This order and all transactions affected thereby are subject to all applicable provisions of all regulations of the War Production Board, as issued and amended from time to time.

(2) [Deleted Oct. 26, 1943.]

(3) [Deleted Oct. 26, 1943.]

(4) *Violations.* Any person who wilfully violates any provisions of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, materials under priority control, and may be deprived of priorities assistance.

(5) *Appeals.* Any appeal from the provisions of this order, or any direction thereunder, shall be made by filing a letter in triplicate, referring to the particular provision appealed from and stating fully the grounds of the appeal.

(6) *Communications.* All reports to be filed and other communications concerning this order should be addressed to: War Production Board, General Industrial Equipment Division, Washington 25, D. C., Ref.: L-273.

Issued this 26th day of October 1943.

WAR PRODUCTION BOARD
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-17358; Filed, October 26, 1943; 11:50 a. m.]

PART 1248—SANITARY BELTS AND SUPPORTS

[Revocation of General Limitation Order L-137]

Section 1248.1 *General Limitation Order L-137* is hereby revoked.

This action is not to be construed to affect in any way any liability or penalty accrued or incurred under General Limitation Order L-137.

Issued this 26th day of October 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-17359; Filed, October 26, 1943; 11:50 a. m.]

PART 3175—REGULATIONS APPLICABLE TO THE CONTROLLED MATERIALS PLAN

[Interpretation 20 to CMP Reg. 1]

PROCURING CLAIMANT AGENCIES

The following interpretation is issued with respect to CMP Regulation 1:

(a) The "procuring" Claimant Agencies under the Controlled Materials Plan are:

(1) War Department (including Ordnance).
(2) Navy Department.
(3) Maritime Commission.
(4) Aircraft Resources Control Office.
(5) Office of Lend-Lease Administration.

(b) The other Claimant Agencies are sometimes referred to as "non-procuring" Claimant Agencies.

Issued this 26th day of October 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-17360; Filed, October 26, 1943; 11:50 a. m.]

PART 3175—REGULATIONS APPLICABLE TO THE CONTROLLED MATERIALS PLAN

[CMP Reg. 8, as Amended October 26, 1943]

PRODUCTION REQUIREMENTS OF CONTROLLED MATERIALS PRODUCERS

§ 3175.8 *CMP Regulation 8*—(a) *Purpose and scope.* It is the purpose of this regulation to provide procedures under which controlled materials producers may obtain controlled materials, Class A products, Class B products and other products and materials required as production materials for the production of controlled materials.

(b) *Definition.* The following definition shall apply for the purposes of this regulation:

"Production material" means, with respect to any controlled materials producer, any material or product which will be physically incorporated in his product, and includes the portion of such material normally consumed or converted into scrap in the course of processing. It does not include any items purchased by him as manufacturing equipment or for maintenance, repair or operating supplies as defined in CMP Regulation No. 5.

(c) *Applications for allotments by controlled materials producers.* (1) Except in those cases handled by directives issued under paragraph (b) (3) of CMP Regulation No. 1, where a controlled materials producer requires delivery after March 31, 1943, of controlled materials or of Class A products to be incorporated in a controlled material produced by him, he may apply for an allotment on Form CMP-4B or such other form as may be prescribed for the purpose. In the case of aluminum required for deoxidizing and alloying purposes, thermit reaction, chemical uses and wire for armoring cable, Form CMP-13 shall be used in making applications for allotments under this paragraph (c).

(2) Applications on Form CMP-4B made pursuant to this paragraph (c) should be directed to the Controlled Materials Division charged with supervision over the operations of the controlled materials producer, even if a different controlled material is involved. For example, a copper wire mill requiring steel wire (a controlled material) for the production of steel armored copper cable (a controlled material) should direct his Form CMP-4B application for steel to the Copper Division, War Production Board, Washington 25, D. C. Applications on Form CMP-13 should, however, in all cases, be directed to the Aluminum Division, War Production Board, Washington 25, D. C. In the case of applications filed pursuant to this paragraph (c) on Form CMP-4B, Sections A, D and E of such form should be left blank.

(3) Allotments of controlled materials will be made to controlled materials producers applying under this paragraph (c) in the same manner as provided in CMP Regulation No. 1 with respect to allotments made for the production of Class A and Class B products; and controlled materials producers applying for and receiving such allotments shall be subject to the same obligations and entitled to the same rights with respect thereto as provided in CMP Regulation No. 1 in the case of other persons applying for and receiving allotments: *Provided,* That a controlled materials producer receiving allotments under this paragraph (c) will receive from his Controlled Materials Division production directions or authorizations in lieu of authorized production schedules.

(4) [Revoked May 20, 1943]

(d) *Assignment of preference rating and allotment symbol to controlled materials producers for production materials*—(1) *Preference rating:* Preference rating AA-1 is hereby assigned to deliveries of production materials, other than controlled materials, required for the production of controlled materials by any controlled materials producer who has applied for, and received, specific authorization from the appropriate Controlled Materials Division to operate under this regulation and no controlled materials producer shall use the rating or allotment symbol assigned by this regulation in the absence of such authorization. Such application may be made by letter directed to the appropriate Controlled Materials Division.

(2) *Allotment symbol.* The allotment symbol X-1 is hereby assigned to each controlled materials producer authorized to operate under this regulation, solely for use with the preference rating assigned by paragraph (d) (1) of this regulation, which symbol shall constitute an "allotment symbol" for the purposes of CMP Regulation No. 3. The assignment of such symbol does not consti-

tute the making of an allotment, and such symbol shall not be used to obtain controlled materials.

(3) *Use of rating and allotment symbol for production materials required to fulfill production directives.* A controlled materials producer authorized to operate under this regulation who has received a production directive or other authorization to produce controlled materials, may use the preference rating hereby assigned with the appropriate allotment symbol to acquire production materials, other than controlled materials, in the minimum practicable amounts required to fulfill such production or to replace such production materials in his inventory, subject to the restrictions of paragraph (c) (2) of Priorities Regulation No. 3. He may not use such rating or allotment symbol for any other purpose.

(d–1) *Assignment of preference rating and allotment number to steel producers to secure performance of services.* Each steel producer who has been specifically authorized to operate under this regulation as provided in paragraph (d) (1) may apply an AA–1 rating on orders for the processing of steel which he furnishes to others to be processed for him, into the same or another controlled material form. To apply this rating, orders must be endorsed with the rating AA–1 followed by the symbol X–1 and with the form of certification described in CMP Regulation No. 7, signed manually or as provided in Priorities Regulation No. 7.

(e) *No extension of customers' allotments or ratings by controlled materials producers.* (1) An authorized controlled material order shall not constitute an allotment of controlled materials to the controlled materials producer with whom it is placed but such order shall be filled in the manner provided in CMP Regulation No. 1.

(2) No controlled materials producer shall, in connection with the production of controlled materials, extend any preference rating received from a customer.

(3) No controlled materials producer shall, in connection with the production of controlled materials, use any allotment received from a customer.

(4) On and after March 13, 1943, no consumer shall include in any bill of materials or application for allotment, requirements for controlled materials which are required for the production of the controlled material to be included in his product. For example, a consumer requiring steel armored copper cable, shall not state in his bill of materials or application for allotment covering such cable, the steel which will be required by the copper wire mill for the manufacture thereof. The copper wire mill will obtain its requirements of steel wire under the procedures provided for in this regulation. However, in those cases where a consumer has actually received an allotment of controlled materials required for the production of any controlled material, or Class A product to be incorporated therein, he shall, notwithstanding the provisions of this paragraph (e), make an allotment thereof to the controlled materials producer from whom he is to acquire such controlled material, and the controlled materials producer receiving such allotment shall cancel the same and report such cancellation within 15 days to the appropriate Controlled Materials Division. For example, if a consumer requiring steel armored copper cable has received an allotment of steel required for the production of such cable, he must, at the time of placing his order with the copper wire mill, make an allotment of the steel required to produce such cable and the copper wire mill shall not use such allotment but shall cancel the same and report such cancellation to the Copper Division.

(f) *Use of allotment numbers on delivery orders.* Each controlled materials producer shall place on each delivery order for production materials, other than controlled materials, rated pursuant to this regulation, the allotment symbol assigned by this regulation or by the related allotment certificate, and shall accompany or endorse the same with a certification in substantially the form provided in CMP Regulation No. 3 (in lieu of the certification provided in Priorities Regulation No. 3) or in the optional standard form provided in CMP Regulation No. 7, signed manually or as provided in Priorities Regulation No. 7.

Issued this 26th day of October 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43–17361; Filed, October 26, 1943; 11:50 a. m.]

PART 3290 [1]—TEXTILE, CLOTHING, AND LEATHER

[General Limitation Order L–85 as Amended Oct. 26, 1943]

APPAREL FOR FEMININE WEAR

§ 3290.1 [1] *General Limitation Order L–85*—(a) *Applicability of regulations.* This order and all transactions affected thereby are subject to all applicable regulations of the War Production Board.

(b) *Definitions.* For the purpose of this order and its schedules:

(1) "Put into process" means the first cutting of cloth in the manufacture of any apparel for feminine wear.

(2) Unless otherwise specifically defined, all terms in this order and its schedules shall have their usual and customary trade meanings.

(c) *General restrictions.* (1) No person shall put into process or manufacture any apparel for feminine wear contrary to the restrictions in any schedule of this order.

(2) No person shall sell or deliver any apparel for feminine wear knowing the same to have been put into process or manufactured contrary to the restrictions in any schedule of this order.

(d) *General exceptions.* The provisions of this order and its schedules shall not apply to:

(1) Apparel for feminine wear made in the home and not for remuneration;

(2) The sale of apparel, for feminine wear by a person who acquired the same for her own personal use;

(3) The sale of second hand apparel for feminine wear;

(4) The alteration of any apparel for feminine wear to fit a specific individual consumer;

(5) Apparel for feminine wear for persons of heights of 5′ 7½″ or over, of abnormal size, or with physical deformities, to the extent it is necessary to use in such apparel additional material for proportionate length, sweep or width;

(6) Bridal gowns;

(7) Burial gowns;

(8) Robes and vestments as required by the rules of religious orders and sects and the judiciary;

(9) Historical costumes for theatrical productions;

(10) Officially prescribed uniforms manufactured in accordance with the specifications of the applicable department or agency regulations for personnel of the United States Army, Navy, Marine Corps, Coast Guard, Maritime Commission, War Shipping Administration, and their auxiliaries; and cadet nurses of the Public Health Services.

(11) Apparel for feminine wear manufactured in foreign countries and received in customs in the United States prior to July 1, 1943.

(e) *Equitable distribution.* It is the policy of the War Production Board that the products described in this order not required to fill rated orders shall be distributed equitably. In making such distribution due regard should be given to essential civilian needs, and there should be no discrimination in the acceptance or filling of orders as between persons who meet the seller's regularly established prices and terms of sale or payment. Under this policy every seller of such products, so far as practicable, should make available an equitable proportion of his merchandise to his customers periodically, without prejudice because of their size, location or relationship as affiliated outlets. It is not the intention to interfere with established channels and methods of distribution unless necessary to meet war or essential civilian needs. If voluntary observance of the policy outlined is inadequate to achieve equitable distribution, the War Production Board may issue specific directions to named concerns. A failure to comply with a specific direction shall be deemed a violation.

(f) *Appeals.* Any appeal from the provisions of this order shall be made by filing a letter in triplicate, referring to the particular provision appealed from and stating fully the grounds of the appeal.

[1] Formerly Part 1166, § 1166.1, Schedules I through V formerly §§ 1166.2 through 1166.6.

(g) *Communications to the War Production Board.* All reports to be filed hereunder and all communications concerning this order shall, unless otherwise directed, be addressed to War Production Board, Textile, Clothing and Leather Division, Washington, D. C., Ref. L–85.

(h) *Violations.* Any person who wilfully violates any provision of this order, or who in connection with this order wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries or from processing or using material under priority control and may be deprived of priorities assistance by the War Production Board.

Issued this 26th day of October 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

INTERPRETATION 1

[Superseded May 25, 1943 by paragraph (b) (10) of L–85]

[F. R. Doc. 43–17362; Filed, October 26, 1943; 11:49 a. m.]

PART 3290—TEXTILE, CLOTHING, AND LEATHER

[Schedule I, as Amended Oct. 26, 1943, to General Limitation Order L–85]

WOMEN'S, MISSES' AND JUNIOR MISSES' DRESSES

§ 3290.2 *Schedule I to General Limitation Order L–85*—(a) *Definitions.* For the purpose of this schedule:

(1) When descriptive of sizes:

(i) "Misses'" means sizes 10–20;

(ii) "Junior misses'" means sizes 9–17;

(iii) "Women's regular" means sizes 36–52;

(iv) "Little women's" means sizes 14½–28½;

(v) "Women's stout" means sizes 38½–52½;

(vi) "Women's odd" means sizes 35–51.

(2) "Evening dress" and "dinner dress" means a dress of floor or ankle length;

(3) "Suit dress" means an unlined two-piece outfit consisting of top and skirt, sold as one unit and commonly known to the trade as a two-piece dress. It shall be subject to all the regulations of this Schedule I governing dresses. However, if the top is lined, half lined, sleeve lined, partly or skeleton lined, it shall be deemed a suit and not a dress, and shall be subject to Schedule III governing suits;

(4) "Daytime dress" means any dress other than an evening or dinner dress;

(5) "Dress" includes an evening dress, dinner dress, suit dress, daytime dress, nurses' uniform, maid's uniform and maternity dress;

(6) "Body basic" means the front and back of the waist, the skirt, sleeves, inside shoulder pads, belt or sash, hem, normal facings, and 2" lap on an open front top;

(7) "Trimming allowance" means the material allowed to be used to trim a body basic;

(8) "French cuff" means a cuff over a cuff, or a double cuff;

(9) "French facing" means a facing extending to the armhole or beyond;

(10) "Culotte" means a garment with a divided skirt;

(11) "Measurements" means, unless otherwise specified, maximum finished measurements in inches after all manufacturing operations have been completed and the dress is ready for shipment, as follows:

(i) "Sweep" means the maximum circumference of a skirt at any point parallel to the floor;

(ii) "Hipline" means the line 9 inches below the waistline;

(iii) "Sleeve length" means the maximum measurement from the side of the neck over the shoulder to the bottom of the sleeve;

(iv) "Sleeve circumference" means the maximum measurement at the bottom of the sleeve, or at the part attached to the cuff;

(v) Measurements of the length of a daytime dress and of a top of a suit dress shall be made from the nape of the neck to the bottom of the finished garment;

(vi) Measurements of the length of a suit dress skirt shall be made from the highest point of the skirt to the bottom of the finished garment;

(vii) Measurements of the length of an evening or dinner dress shall be made from the center of the hollow of the neck to the bottom of the finished garment.

(b) *General exceptions.* The provisions of this schedule shall not apply to dresses, the cloth for which was put into process prior to:

(1) May 27, 1943, in the case of fall and winter dresses; and

(2) July 1, 1943, in the case of summer dresses: *Provided,* That the provisions of General Limitation Order L–85 as amended July 10, 1942, shall apply to summer dresses until July 1, 1943.

(c) *General restrictions on processing, manufacture and sale of women's, misses', and junior misses dresses.* (1) No person shall put into process, manufacture, sell or deliver any dress, including a jumper dress, with another garment or article at a unit price, except that the top and skirt of a suit dress may be sold as one unit at a unit price.

(2) No person shall put into process, manufacture, sell or deliver a dress with an attached hood, cape, fichu, vest, pants, handkerchief, or shawl.

(3) No person shall change any manufactured size marking to denote a different size or a different size range.

(d) *General restrictions applying to the processing of a dress.* (1) No person shall put into process any cloth for the manufacture of a dress with:

(i) French facings;

(ii) A belt or sash over 2" in width;

(iii) Bi-swing, vent, or Norfolk type backs;

(iv) Balloon, dolman or leg-of-mutton sleeves;

(v) Sleeve facing over 1½ inches;

(vi) Culottes;

(vii) A skirt with pleating, tucking or shirring, except when the sweep before pleating, tucking or shirring does not exceed the prescribed sweep of that particular size;

(viii) An open front or fly front skirt which does not conform when open to the measurements prescribed for that particular size;

(ix) French cuffs.

(x) Suspenders or attachments above the waistline of the skirt part of a suit dress.

(e) *General restrictions applying to the use of trimming allowance.* (1) No person shall put into process any cloth for trimming on a dress exceeding the following restrictions:

(i) Cuffs over 3" in width;

(ii) Cuffs with more than 2 buttons and buttonholes;

(iii) More than 1 ruffle on each sleeve;

(iv) A sleeve ruffle exceeding 3" in width;

(v) More than 1 collar or revers. (A single collar or revers of 2 thicknesses with an inside lining is permitted.);

(vi) A collar or ruffle over 5" wide;

(vii) More than 2 pockets, inside or out, or with any patch pocket exceeding 42 square inches of material before reduction;

(viii) More than 4 flaps over 18 square inches each;

(ix) Quilting in excess of 300 square inches;

(x) Pleating, tucking or shirring of any part or section above the waistline of a dress, increased by more than 10% of said part or section, except that the width of the complete front of a top of a dress may be increased by 8 inches of material.

Provided, That the use of cloth as allowed above shall be charged against the trimming allowance.

(f) *Body basic and trimming allowance.* (1) A dress shall consist only of cloth sufficient for the body basic and the trimming allowance. At any place on the body basic where there is more than 1 thickness of material, except for the belt or sash, normal facings, inside shoulder pads, hem, an attached slip under transparent fabrics, and a 2" lap on an open front top, all of which are considered part of the body basic, the extra thickness shall be deemed trimming and shall be charged against the trimming allowance.

(2) The body basic shall be limited to (See Fig. 1):

(i) The complete front and back of the waist up to the neckline, including normal fullness. In the case of a suit dress, the waist or top shall not exceed 25 inches in length for a size 16, other sizes to be graded in normal proportions;

(ii) The skirt, with the limitations of hip, length, sweep, and hem, as provided in paragraph (g);

(iii) Short or full length sleeves, with the limitations of length and circumference as provided in paragraph (g), and the limitation of facings as provided in paragraph (d) (i) (v);

(iv) One belt or sash;

(v) Inside shoulder pads;

(vi) A 2" lap on an open front top;

(vii) Normal facings.

(viii) An attached slip under a transparent fabric.

(3) The trimming allowance shall be limited to:

(i) 700 square inches for nontransparent fabrics for all sizes if the hip measurement does not exceed the body basic hip measurement. However, if the hip measurement exceeds the allowable body basic hip measurement, and in no event may it exceed the allowable sweep, such trimming allowance shall be reduced to 525 square inches;

(ii) 1400 square inches for transparent fabrics for all sizes if the hip measurement does not exceed the body basic hip measurement. However, if the hip measurement exceeds the allowable body basic hip measurement, and in no event may it exceed the allowable sweep, such trimming allowance shall be reduced to 1050 square inches.

(g) *General restrictions on the measurements of dresses.* Maximum measurements for all sizes and ranges other than those specified below shall be graded in normal trade proportions.

(1) *Daytime dresses.* Daytime dresses shall be of and graded from the following maximum measurements:

Type	Size	Skirt sweep other than wool & wool 9 oz & under	Skirt sweep wool over 9 ounces	Basic body hip meas.	Dress length	Hem	Sleeve circum.	Sleeve length
Misses	16	72	64	56	43½	2	14	30
Jr. miss	15	72	64	56	42	2	14	30
Little wom. (short)	20½	76	70	62	44½	2	15½	29
Women's reg	40	76	70	62	46	2	15½	31½
Women's stout	42½	78	72	64	47	2	16	32
Women's odd	41	80	74	64	47	2	16	31

(2) *Suit dresses.* The above maximum measurements relating to daytime dresses shall apply to suit dresses, in addition to which the following maximum measurements are also to be observed:

Type	Size	Top or waist length	Skirt lgth. including waistband
Misses	16	25	28
Jr. miss	15	25	27½
Little wom. (short)	20½	25½	27½
Women's reg	40	26½	29¼
Women's stout	42½	26½	30¼
Women's odd	41	26¾	30¼

(3) *Evening and dinner dresses.*

(i) Sweeps on all sizes of evening and dinner dresses shall be limited, with respect to the following materials, to:

(*a*) 90 inches when made of crepes, crepe satins, and similar fabrics;

(*b*) 144 inches when made of taffeta, flat satins, and failles;

(*c*) 288 inches when made of transparent fabrics;

(*d*) 90 inches when made of any other material.

(ii) Lengths for evening and dinner dresses shall not exceed:

(*a*) 59½" for size 16, Misses' range;

(*b*) 53" for size 15, Junior Misses' range;

(*c*) 60½" for size 40, Women's range.

(iii) No evening or dinner dress may be made of wool cloth.

(iv) Except for measurements of length and sweep, all other measurements relating to daytime and suit dresses shall apply to evening and dinner dresses.

(v) Any dress shorter than ankle or floor length shall conform in all respects with the measurements prescribed for daytime and suit dresses.

(4) *Maternity dresses.* Maternity dresses shall be subject to all of the regulations and restrictions relating to daytime and suit dresses, except:

(i) A misses', size 16, may have a maximum sweep of 86 inches, unless it is of the wrap-around type in which case it may have a maximum sweep of 94 inches;

(ii) A junior misses', size 15, may have a maximum sweep of 86 inches, unless it is of the wrap-around type in which case it may have a maximum sweep of 94 inches;

(iii) A women's, size 40, may have a maximum sweep of 90 inches, unless it is of the wrap-around type in which case it may have a maximum sweep of 93 inches;

(iv) All sizes may be made 1 inch longer than lengths prescribed for daytime or suit dresses;

(v) The full trimming allowance may be used even when the hip measurement, which may in no case exceed the allowable sweep, exceeds the maximum hip measurements of the Body Basic.

(5) *Nurses uniforms.* Nurses uniforms shall be of and graded from the following maximum measurements:

Type	Size	Length pre-shrunk	Length non-shrunk	Hems	Sweep
Misses	16	44½	47	3	72
Junior miss	15	43	45½	3	72
Women's	40	46	48½	3	76

(6) *Maids uniforms.* Maids uniforms shall be of and graded from the following maximum measurements:

Type	Size	Length pre-shrunk	Length non-shrunk	Hems	Sweep
Misses	16	43½	45½	2	60
Women's	40	45	47	2	66

(7) *Washable service apparel wrap-around dresses and Hoover aprons.* Washable service apparel wrap-around dresses and Hoover aprons shall be of and graded from the following maximum measurements:

Type	Size	Length pre-shrunk	Length non-shrunk	Hem	Sweep
Misses'	16	43½	45½	3	78
Women's	40	45	47	3	84

(h) *Records.* Every person who puts cloth into process for the manufacture of dresses shall make and retain, for not less than one year, a record of the number of square inches used for the trimming on each style of dress manufactured by him.

Issued this 26th day of October 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

BODY BASIC

MISSES SIZE 16

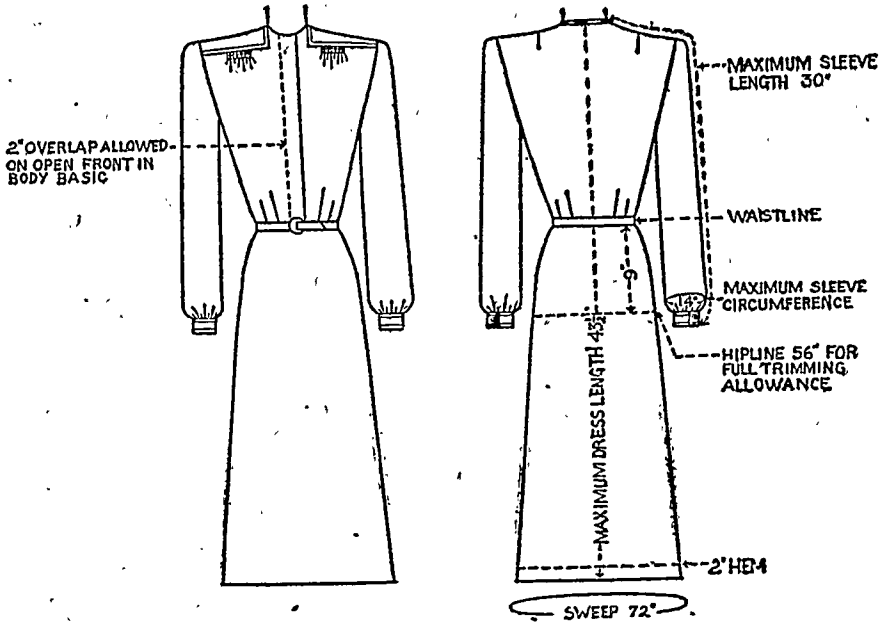

Figure 1

[F. R. Doc. 43-17363; Filed, October 26, 1943; 11:49 a. m.]

PART 3290—TEXTILE, CLOTHING, AND LEATHER

[Schedule III, as Amended Oct. 26, 1943, to General Limitation Order L–85]

WOMEN'S, MISSES' AND JUNIOR MISSES' COATS, FUR COATS, TOPPERS, SUITS, JACKETS, SKIRTS, SLACKS, OVERALLS, COVERALLS, PLAY SUITS AND SHORTS

§ 3290.4 *Schedule III to General Limitation Order L–85*—(a) *Definitions.* For the purpose of this schedule:

(1) "Coat" means any outer garment for feminine wear, usually worn over other outer apparel, including a cape, a raincoat, an evening coat, a reefer and a topper, but excluding a fur coat;

(2) "Fur coat" means an outer garment for feminine wear, usually worn over other outer apparel, and made of fur;

(3) [Deleted October 26, 1943]

(4) "Suit" means a garment consisting of a separate jacket and skirt of either matching or contrasting material, sold as one unit;

(5) "Jacket" means a coat shorter than 33 inches of the type usually worn with a skirt or slacks or over other apparel. (Note that paragraph (e) (2) specifies the maximum permitted length for a jacket.)

(6) "Evening skirt" means a skirt of floor or ankle length;

(7) "French cuff" means a cuff over a cuff, or a double cuff;

(8) "French facing" means a facing extending to the armhole or beyond;

(9) "Culotte" means a garment with a divided skirt;

(10) "Measurements" means, unless otherwise specified, maximum finished measurements in inches after all manufacturing operations have been completed and the garment is ready for shipment, as follows:

(i) Measurements of the length of coats, toppers, and jackets shall be made from the nape of the neck to the bottom of the finished garment;

(ii) Measurements of the length of skirts shall be made from the highest point of the skirt to the bottom of the finished garment;

(iii) "Sweep" means the maximum circumference of a skirt at any point parallel to the floor;

(iv) "Sleeve length" means the maximum measurement from the side of the neck over the shoulder to the bottom of the sleeve;

(v) "Sleeve circumference" means the maximum measurement at the bottom of the sleeve, or at the part attached to the cuff.

(b) *General exceptions.* The provisions of this schedule shall not apply to any apparel for feminine wear referred to in this schedule, the cloth for which was put into process prior to:

(1) May 27, 1943, in the case of fall and winter apparel for feminine wear; and

(2) July 1, 1943, in the case of summer apparel for feminine wear, provided that the provisions of General Limitation Order L–85 as amended July 10, 1942, shall apply to summer apparel for feminine wear until July 1, 1943.

(c) *General restrictions on processing, manufacture and sale of all women's misses', junior misses' coats, suits, jackets, skirts, slacks, coveralls, overalls, play suits, shorts and fur coats.* (1) No person shall put into process, manufacture, sell or deliver an article of apparel for feminine wear covered by this Schedule with another garment or article at a unit price, except that:

(i) A jacket may be sold with a skirt, or with a slack, or with ski pants as a two-piece outfit at a unit price; and

(ii) A skirt may be sold with a one-piece short playsuit at a unit price.

(2) No person shall put into process, manufacture, sell or deliver an article of apparel for feminine wear covered by this schedule with an attached hood, cape, capelet, fichu, vest, cap, pants, handkerchief, shawl or scarf.

(3) No person shall change any manufactured size marking to denote a different size or a different size range.

(d) *General restrictions applying to the processing of apparel for feminine wear covered by this schedule.* (1) No person shall put into process any cloth for the manufacture of a coat with:

(i) French facings;

(ii) A belt or sash over 2 inches in width;

(iii) Bi-swing or Norfolk-type backs;

(iv) Balloon, dolman or leg-of-mutton sleeves;

(v) Sleeve facings over 2 inches;

(vi) More than one collar or revers. (Single collar or revers of 2 thicknesses with inside lining permitted);

(vii) Epaulets or tabs on the shoulders;

(viii) More than 2 pockets, inside or out, except on a reversible raincoat in which case 2 pockets may be used on the inside and the outside, or with any patch pocket exceeding 64 square inches of material before reduction;

(ix) More than 4 flaps;

(x) Separate or attached vestees, dickeys, gilets, or scarfs.

(2) No person shall put into process any cloth for the lining of a fur coat:

(i) Exceeding a maximum sweep of 64 inches for a box coat or 74 inches for a fitted coat, for a size 16. The maximum measurements for sweep of other sizes shall be 2 inches more for each larger size and 2 inches less for each smaller size;

(ii) Exceeding a maximum length of 43 inches for a size 16. Other sizes shall be graded in normal trade proportions.

(3) No person shall put into process any cloth for the manufacture of a separate jacket or a jacket which is the top of a suit, a slack suit or a ski suit, with:

(i) French facings;

(ii) A belt or sash over 2 inches in width;

(iii) Bi-swing, vent, or Norfolk-type backs;

(iv) Balloon, dolman, or leg-of-mutton sleeves;

(v) Sleeve facings over 1½ inches;

(vi) More than 1 collar or revers. (Single collar or revers of 2 thicknesses with inside lining permitted);

(vii) A collar over 5 inches in width;

(viii) Epaulets or tabs on the shoulders;

(ix) More than 2 pockets, inside or out, or with any patch pocket exceeding 42 square inches of material before reduction;

(x) More than 4 flaps;

(xi) Separate or attached vestees, dickeys, gilets or scarfs;

(xii) Double breasted fronts;

(xiii) Quilting, except when used as a lining;

(xiv) Pleating, tucking or shirring of any part or section of a jacket which increases by more than 10% said part or section, except that the width of the complete front of jacket may be increased by 8 inches of material.

(4) No person shall put into process any cloth for the manufacture of a separate skirt or a suit skirt or a play suit skirt, with:

(i) A separate or attached half belt, full belt, tab, simulated belt, or belt loops;

(ii) Pleating, tucking or shirring on the waistband;

(iii) A waistband over 3 inches in width at its maximum width;

(iv) Suspenders;

(v) More than 1 pocket, inside or out, or with any patch pocket exceeding 36 square inches of material before reduction;

(vi) A flap on the pocket;

(vii) Features making such skirts of the types known as culottes, reversible skirts, lined skirts, quilted skirts, or skating skirts;

(viii) Pleating, tucking, or shirring, except when the sweep before pleating, tucking or shirring does not exceed the prescribed sweep of that particular size.

(5) No person shall put into process any cloth for the manufacture of a slack, coverall, overall, short, play suit, or ski pants, with—

(i) A separate or attached half belt, full belt, simulated belt, tab, or belt loops except that a coverall may have a belt and belt loops;

(ii) Pleating, tucking or shirring on the waistband;

(iii) A waistband over 3 inches in width at its maximum width;

(iv) More than 2 pockets, inside or out, or with any patch pockets exceeding 36 square inches of material before reduction;

(v) Flaps on pockets;

(vi) A cuff;

(vii) A blouse or shirt top which exceeds the restrictions of Schedule II governing blouses.

(e) *General restrictions on the measurements of all apparel for feminine wear covered by this schedule.* Maximum measurements for all sizes and ranges other than those specified below shall be graded in normal trade proportions.

(1) *Coats.* Coats shall not be shorter than 33 inches for any size and shall be of and graded from the following maximum measurements:

Type	Size	Hems	Outside sleeve measurements	Sleeve circumf.	Sweep		Length	
					Fit	Box	Fit	Box
Misses'	16	2	30	16½	70	60	43	42
Jr. misses'	15	2	30	16½	70	60	41½	40½
Little women	20½	2	29½	16½	76	66	44	43
Women's reg	40	2	31½	16½	76	66	45½	44½
Women's stout	42½	2	32	16½	78	68	46½	45½
Women's odd	41	2	31½	16½	78	68	46½	45½

(2) *Jackets.* Separate jackets and jackets which are the tops of suits, slack suits, and ski suits shall be of and graded from the following maximum measurements:

Type	Size	Jacket length	Sleeve length	Sleeve circumference	Hems
Misses'	16	25	30	14	1½
Jr. misses'	15	25	30	14	1½
Little women	20½	25½	31½	15½	1½
Women's reg	40	26¾	29	15½	1½
Women's stout	42½	26½	32	16	1½
Women's odd	41	26¾	31	16	1½

(3) *Separate skirts.* Separate skirts shall be of and graded from the following maximum measurements:

Type	Size	Length inc. waistband	Hems	Sweeps	Wool sweeps over 9 oz.
Misses'	16	28	2	78	64
Jr. misses'	15	27	2	78	64
Women's reg	40	29½	2	82	70

(4) *Suit skirts.* Suit skirts shall be of and graded from the following maximum measurements:

Type	Size	Length inc. waistband	Hems	Sweeps	Wool sweeps over 9 oz.
Misses'	16	28	2	72	64
Jr. misses'	15	27	2	72	64
Women's reg	40	29½	2	76	70

(5) *Evening and dinner skirts.* (i) Sweeps on all sizes of evening and dinner skirts shall be limited, with respect to the following materials, to:

(*a*) 90 inches when made of crepes, crepe satins, and similar fabrics;

(*b*) 144 inches when made of taffeta, flat satins, and failles;

(*c*) 288 inches when made of transparent fabrics;

(*d*) 90 inches when made of any other material.

(ii) Lengths for evening and dinner skirts shall not exceed:

(*a*) 45½" for size 16, Misses' range;

(*b*) 44" for size 16, Junior Misses' range;

(*c*) 46" for size 40, Women's range.

(iii) No evening or dinner skirt may be made of wool cloth.

(iv) Any skirt shorter than ankle or floor length shall conform in all respects with the measurements prescribed for daytime and suit skirts.

(6) *Slacks, overalls and coveralls.* Slacks, overalls and coveralls from waist down shall be of and graded from the following maximum measurements:

Type	Size	Bottom width	Length incl. waistband and turn-up at bottom
Misses'	16	19½	45½
Jr. misses'	15	19½	44½
Women's reg	40	22½	46½

(7) *Ski pants.* Ski pants shall be of and graded from the following maximum measurements:

Type	Size	Bottom width	Length including waistband and turn-up at bottom
Misses'	16	15	42½
Jr. misses'	15	15	41½
Women's reg	40	17	44½

Issued this 26th day of October 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

INTERPRETATION 1

[Superseded October 26, 1943 by the amendment of paragraphs (a) (5) and (e) (1) and the deletion of paragraph (a) (3)]

[F. R. Doc. 43-17364; Filed, October 26, 1943; 11:49 a. m.]

PART 3290—TEXTILE, CLOTHING, AND LEATHER

[Schedule V, as Amended October 26, 1943 to General Limitation Order L-85]

CHILDREN'S APPAREL FOR OUTER WEAR

§ 3290.6 *Schedule V to General Limitation Order L-85*—(a) *Definitions.* For the purpose of this schedule:

(1) "Outerwear" means all apparel for children, excluding underwear and lounging wear;

(2) "Children's apparel" means outerwear of the following size ranges:

(i) Toddler's range 1 to 4 for both sexes;

(ii) Children's range 3 to 6x for both sexes;

(iii) Girl's range 7 to 14;

(iv) Teen age range 10 to 16;

(v) Chubbie range 7½ to 14½ and 10½ to 16½.

(3) "Children's" means all ranges from 1 to 16½;

(4) "Coat" means any outer garment for children usually worn over other outer apparel, including a cape, a raincoat, a reefer and a topper, but excluding a jacket;

(5) "Topper" or "reefer" means a coat not shorter than 33 inches for any size;

(6) "Suit" means a garment consisting of a separate jacket and skirt of either matching or contrasting material, sold as one unit;

(7) "Jacket" means a short coat of the type usually worn with a skirt or slacks or over other apparel;

(8) "Dress" includes a street dress, a suit dress and a party dress;

(9) "Street dress" means any dress other than a party dress;

(10) "Party dress" means a dress of floor or ankle length;

(11) "Suit dress" means an unlined two-piece outfit consisting of a top and skirt, sold as one unit and commonly known to the trade as a two-piece dress. It shall be subject to all the regulations of paragraph (d) (5) governing dresses. However, if the top is lined, half lined, sleeve lined, partly or skeleton lined, it shall be deemed a suit and not a dress and shall be subject to paragraphs (d) (2) and (d) (8) governing jackets and skirts.

(12) "Legging set" means a combination of coat and leggings or pants, of the type known as a double duty outfit;

(13) "Snow suit" or "ski suit" means a one-piece garment or a combination of a jacket and leggings or pants, made exclusively for outdoor wear;

(14) "French facing" means a facing extending to the armhole or beyond;

(15) "Culotte" means a garment with a divided skirt;

(16) "Measurements" means, unless otherwise specified, maximum finished measurements in inches after all manufacturing operations have been completed and the garment is ready for shipment, as follows:

(i) Measurement of the length of coats, toppers, dresses, and jackets shall be made from the nape of the neck to the bottom of the finished garment;

(ii) Measurements of the length of skirts shall be made from the highest point of the skirt to the bottom of the finished garment;

(iii) "Sweep" means the maximum circumference of a skirt or a dress at any point parallel to the floor.

(b) *General exceptions.* The provisions of this schedule shall not apply to children's apparel, the cloth for which was put into process prior to:

(1) May 27, 1943, in the case of fall and winter apparel; and

(2) July 1, 1943, in the case of summer apparel, provided that the provisions of General Limitation Order L-85 as amended July 10, 1942, shall apply to summer apparel until July 1, 1943.

(c) *General restrictions on processing, manufacture and sale of all children's apparel.* (1) No person shall put into process, manufacture, sell or deliver any children's apparel, including a jumper or pinafore, with another garment or article at a unit price, except in the case of the following garments which may be sold as one unit:

(i) A skirt and a top may be sold as a dress;

(ii) A jacket may be sold with a skirt, or with slacks, or with ski pants, as a suit;

(iii) A coat may be sold with one pair of leggings up to and including size 14;

(iv) A one-piece play suit may be sold with a skirt.

(2) No person shall put into process, manufacture, sell or deliver any children's apparel with an attached cape, muff, scarf, bag, hat, cap, capelet, handkerchief or hood, except that a collarless raincoat and a collarless mackinaw or

ski jacket may be sold with a permanently attached hood up to and including size 14.

(3) No person shall change any manufactured size marking to denote a different size or a different size range.

(d) *General restrictions applying to the processing of children's apparel.* (1) No person shall put into process any cloth for the manufacture of a Coat, Cape, or Raincoat, with:

(i) Epaulets or tabs on the shoulders;

(ii) More than one collar or revers. (Single collar or revers of two thicknesses with inside lining permitted);

(iii) A collar over 5 inches wide;

(iv) More than 2 pockets, inside or out, except on a reversible raincoat in which case 2 pockets may be used on the inside and the outside, or with any patch pocket exceeding 36 square inches of material before reduction.

(v) More than 1 flap on each pocket;

(vi) More than 2 separate flaps for trimming use;

(vii) Balloon, dolman, or leg-of-mutton sleeves;

(viii) French facings;

(ix) Turn-back cuffs;

(x) A belt over 2 inches wide;

(xi) Bi-swing, vent, pleat, or Norfolk-type backs from the waist up;

(xii) Vestees, dickeys or gilets;

(xiii) Sleeve facings over 1½ inches;

(xiv) Bibs on leggings of legging sets;

(xv) Measurements which are not of or graded from the following maximum measurements:

Type	Size	Length box coat	Sweep box coat	Length fitted	Sweep fitted	Hem	Sweep for coat cut with leggings
Toddlers'	4	19	46	----------	----------	2	48
Children's	6x	26	52½	----------	----------	2	54½
Girl's	14	36	63	36	63	2	64
Chubbie girl's	14½	36	60	36	70	2	----------
Teen age	16	40	59½	41	68	2	----------
Chubbie teen age	16½	40	63½	41	72	2	----------

Maximum measurements for all sizes other than those specified above shall be graded in normal trade proportions.

(2) No person shall put into process any cloth for the manufacture of a separate jacket or a jacket which is the top of a suit, a slack suit, a snow suit, or a ski suit, with:

(i) A belt wider than 2 inches;

(ii) Balloon, dolman or leg-of-mutton sleeves;

(iii) Sleeve facings over 1½ inches;

(iv) A cuff on a sleeve;

(v) More than 1 collar or revers. (Single collar or revers of 2 thicknesses with inside lining permitted);

(vi) Collar or revers over 5 inches in width;

(vii) More than 2 pockets, inside or out, or with a patch pocket exceeding 36 square inches of material before reduction;

(viii) More than 1 flap on each pocket;

(ix) More than 2 separate flaps for trimming use;

(x) Epaulets or tabs on the shoulders;

(xi) French facings;

(xii) Double breasted fronts in teen age sizes 10 to 16;

(xiii) Quilting, except when used as a lining;

(xiv) Bi-swing, vent, or Norfolk-type backs;

(xv) A dickey collar except on collarless jackets;

(xvi) Measurements which are not of or graded from the following maximum measurements:

Range	Size	Jacket length	Snow & ski suit jacket length	Hems
Toddlers'	3	14½	15½	1½
Children's	6x	16½	18	1½
Girl's	14	20½	22	1½
Chubbie girl's	14½	20½	22	1½
Teen age	16	23½	23½	1½
Chubbie teen age	16½	23½	23½	1½

Maximum measurements for all sizes and ranges other than those specified above shall be graded in normal trade proportions.

(3) No person shall put into process any cloth for the manufacture of a separate skirt or a suit skirt or a play suit skirt, with:

(i) A separate or attached half belt, full belt, tab, simulated belt, or belt loops;

(ii) Pleating, tucking or shirring on the waistband;

(iii) Suspenders, except on sizes 1 to 3 and 3 to 6x. (If suspenders are used on the approved sizes the width must be limited to 1½ inches finished and no ruffles may be applied to the suspenders);

(iv) More than 1 pocket, inside or out, or with any patch pocket exceeding 25 square inches of material before reduction;

(v) A flap on the pocket;

(vi) A waistband over 2 inches in width at its maximum width;

(vii) Features making such skirts of the types known as culottes, reversible skirts, lined skirts, quilted skirts, or skating skirts;

(viii) Overall pleating, tucking or shirring, except when the sweep before pleating, tucking or shirring does not exceed the prescribed sweep of that particular size;

(ix) Measurements which are not of or graded from the following maximum measurements:

Range	Size	Sweep	Length including waistband	Hems
Toddlers'	3	48	11½	2
Children's	6x	60	16¾	2
Girl's	14	68	24	2
Chubbie girl's	14½	72	24	2
Teen age	16	76	29	2
Chubbie teen age	16½	78	29	2

Maximum measurements for all sizes other than those specified above shall be graded in normal trade proportions.

(4) No person shall put into process any cloth for the manufacture of a slack, coverall, overall, short, play suit, snow suit or ski pants, with:

(i) A separate or attached belt, half belt, simulated belt, tab, or belt loops, except that

(a) Slacks or shorts for male children may have a belt and belt loops if they do not have either suspenders, a bib or any button-on features; and

(b) A one-piece play suit and a one-piece snow suit may have a belt.

(ii) A waistband over 2 inches in width at its maximum width;

(iii) Pleating, tucking or shirring on the waistband;

(iv) More than 2 pockets, inside or out, or with any patch pocket exceeding 36 square inches of material before reduction;

(v) Flaps on the pockets;

(vi) Cuffs;

(vii) Suspenders, except on sizes 1 to 3 and 3 to 6x. (If suspenders are used on the approved sizes the width must be limited to 1½ inches finished and no ruffles may be applied to the suspenders);

(viii) Measurements which are not of or graded from the following maximum measurements:

Range	Size	Length ski pants	Max. length incl. turn-up, slacks & coveralls & overalls from waist down	Circumference at bottom
Toddlers'	3	27	22½	15
Children's	6x	33	28	16
Girl's	14	42	40	18
Teen age	16	44	42½	19

(5) No person shall put into process any cloth for the manufacture of children's dresses, with:

(i) Balloon, dolman or leg-of-mutton sleeves;

(ii) French facings;

(iii) A belt over 2 inches in width;

(iv) A sash over 3 inches in width;

(v) A bias cut sash;

(vi) Double yokes;

(vii) Bi-swing, vent, pleat, or Norfolk-type backs;

(viii) Epaulets or tabs on the shoulders;

(ix) More than 1 collar or revers. (Single collar or revers of 2 thicknesses permitted);

(x) A collar or revers over 5 inches in width;

(xi) More than 2 pockets, inside or out, or with any patch pocket exceeding 36 square inches of material before reduction;

(xii) More than 1 flap on each pocket;

(xiii) More than 2 separate flaps for trimming use;

(xiv) Cuffs over 2 inches in width;

(xv) More than 1 button or buttonhole on a cuff;

(xvi) Sleeve facings over 1½ inches;

(xvii) Suspenders;

(xviii) Extra sleeves, attached or otherwise;

(xix) Vestees or gilets;

(xx) Quilting;

(xxi) More than 1 ruffle (not to exceed 2 inches in width) on a sleeve;

(xxii) Ruffles on skirt, except that ruffles may be used on or around skirt pockets;

(xxiii) A skirt pleated, tucked or shirred, except when the sweep before

pleating, tucking or shirring does not exceed the prescribed sweep of that particular size;

(xxiv) Features making such dresses known as culottes and reversible dresses;

(xxv) More than two trimming bows;

(xxvi) Petticoat, apron, or overskirt;

(xxvii) A dickey collar except on a collarless dress. (The dickey collar shall be no longer than 15 inches from the center back of the neckline to the longest point in front for a size 16);

(xxviii) Measurements which are not of or graded from the following maximum measurements:

Range	Size	Street length	Street sweep	Street hems	Party length	Party sweep	Party hem	Length top two-piece dress
Toddlers'	3	17½	48	3				14½
Children's	6x	26	56	3	37	80	1	16½
Girl's	14	36	66	3	52	96	1	20½
Chubbie girl's	14½	36	72	3	52	96	1	20½
Teen age	16	41	72	2	57	120	1	23½
Teen age chubbie	16½	41	78	2	57	120	1	23½

Maximum measurements for all sizes other than those specified above shall be graded in normal trade proportions.

Issued this 26th day of October 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-17365; Filed, October 26, 1943; 11:49 a. m.]

Chapter XI—Office of Price Administration

PART 1340—FUEL

[MPR 120,[1] Incl. Amdt. 69]

BITUMINOUS COAL DELIVERED FROM MINE OR PREPARATION PLANT

Sections 1340.207 (b), 1340.210 (a) (2), 1340.223 (b) (2) and 1340.226 (b) (i) (*a*) are amended by Amendment 69, effective October 30, 1943, so that Maximum Price Regulation No. 120 shall read as follows:

In the judgment of the Price Administrator the prices of bituminous coal are threatening to rise to an extent and in a manner inconsistent with the purposes of the Emergency Price Control Act of 1942. The Price Administrator has ascertained and given due consideration to the prices of bituminous coal prevailing between October 1 and October 15, 1941, and has made adjustments for such relevant factors as he has determined and deemed to be of general applicability. At the request of the Price Administrator the Bituminous Coal Division, United States Department of the Interior, has cooperated with the Price Administrator in the formulation of the maximum prices established by this regulation in accordance with the arrangement effectuated by the letters, dated March 9 and March 13, exchanged between the Price Administrator and the Secretary of the Interior. So far as practicable, the Price Administrator has advised and consulted with representative members of the industry which will be affected by this regulation.

In the judgment of the Price Administrator the maximum prices established by this regulation are and will be generally fair and equitable and will effectuate the purposes of said Act. A statement of the considerations involved in the issuance of this regulation has been issued simultaneously herewith and filed with the Division of the Federal Register.[2]

Such specifications and standards as are used in this regulation were, prior to such use, in general use in the trade or industry affected and have been previously promulgated and their use lawfully required by another Government agency.

[Preamble as amended by Am. 62; 8 F.R. 12557, effective 9-11-43]

Therefore, under the authority vested in the Price Administrator, and in accordance with Procedural Regulation No. 1,[3] issued by the Office of Price Administration, Maximum Price Regulation No. 120 is hereby issued.

Sec.

1340.201 Maximum prices for bituminous coal delivered from mine or preparation plants.
1340.202 Less than maximum prices:
1340.203 Adjustable pricing.
1340.204 Evasion.
1340.205 Records and reports.
1340.206 Enforcement.
1340.206a Licensing.
1340.207 Petitions for amendment and applications for adjustment.
1340.208 Definitions.
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1340.210 Maximum price instructions.
1340.211 Effective date of Maximum Price Regulation No. 120.
1340.211a Effective dates of amendments.
1340.212 Appendix A: Maximum prices for bituminous coal produced in District No. 1.
1340.213 Appendix B: Maximum prices for bituminous coal produced in District No. 2.
1340.214 Appendix C: Maximum prices for bituminous coal produced in District No. 3.
1340.215 Appendix D: Maximum prices for bituminous coal produced in District No. 4.
1340.216 Appendix E: Maximum prices for bituminous coal produced in District No. 5.
1340.217 Appendix F: Maximum prices for bituminous coal produced in District No. 6.
1340.218 Appendix G: Maximum prices for bituminous coal produced in District No. 7.
1340.219 Appendix H: Maximum prices for bituminous coal produced in District No. 8.
1340.220. Appendix I: Maximum prices for bituminous coal produced in District No. 9.
1340.221 Appendix J: Maximum prices for bituminous coal produced in District No. 10.
1340.222 Appendix K: Maximum prices for bituminous coal produced in District No. 11.
1340.223 Appendix L: Maximum prices for bituminous coal produced in District No. 12.
1340.224 Appendix M: Maximum prices for bituminous coal produced in District No. 13.
1340.225 Appendix N: Maximum prices for bituminous coal produced in District No. 14.
1340.226 Appendix O: Maximum prices for bituminous coal produced in District No. 15.
1340.227 Appendix P: Maximum prices for bituminous coal produced in District No. 16.
1340.228 Appendix Q: Maximum prices for bituminous coal produced in District No. 17.
1340.229 Appendix R: Maximum prices for bituminous coal produced in District No. 18.
1340.230 Appendix S: Maximum prices for bituminous coal produced in District No. 19.
1340.231 Appendix T: Maximum prices for bituminous coal produced in District No. 20.
1340.232 Appendix U: Maximum prices for bituminous coal produced in District No. 22.
1340.233 Appendix V: Maximum prices for bituminous coal produced in District No. 23.

AUTHORITY: §§ 1340.201 to 1340.233, inclusive, issued under 56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871 and E.O. 9328, 8 F.R. 4681.

§ 1340.201 *Maximum prices for bituminous coal delivered from mine or preparation plant.* On and after May 18, 1942, regardless of the terms of any contract, agreement, lease, or other obligation, no person who is a producer or a distributor shall sell or dispose of bituminous coal for delivery from a mine or a preparation plant operated as an adjunct of a mine or mines and no person shall, in the course of trade or business, buy or receive bituminous coal so delivered by a producer or distributor, at prices higher than the maximum prices set forth in Appendices A to V, inclusive, hereof, incorporated herein as § 1340.212 to § 1340.233; and no such person shall agree, offer, solicit or attempt to do any of the foregoing: *Provided,* That the provisions of this Maximum Price Regulation No. 120, and maximum prices set forth in said Appendices A to V, inclusive, (§ 1340.212 to § 1340.233, inclusive) shall not apply to the sale of any bituminous coal for direct use as bunker fuel at points on the Great Lakes and their connecting tributary waters, and at tidewater, defined in § 1340.308 (a) (5) and (6) of Maximum Price Regulation No. 189,[4] as follows:

(a) "Points on the Great Lakes and their connecting or tributary waters" means any port, point, or place on Lakes Superior, Michigan, Huron, Erie, and Ontario, the waters connecting those lakes, the St. Lawrence River, and those tributaries of the enumerated lakes which are not included in the inland waterways system;

(b) "Points at tidewater" means any tidewater port, point, or place on the Atlantic and Pacific coasts of continental United States, and the coast of continental United States on the Gulf of Mexico.

[1] 7 F.R. 3168, 3447.

[2] Statements of considerations are also issued simultaneously with the issuance of amendments. Copies may be obtained from the Office of Price Administration.

[3] Revised; 7 F.R. 8961; 8 F.R. 3313, 3533, 6173, 11806.

[4] 8 F.R. 2973, 5566, 6444, 6842, 8504, 8680, 10936, 11143, 11690, 11846.

[§ 1340.201 as amended by Am. 12, 7 F.R. 5835, effective 8-1-42]

§ 1340.202 *Less than maximum prices.* Lower prices than those set forth in Appendices A to V, inclusive (§§ 1340.212 to 1340.233, inclusive) may be charged, demanded, paid or offered.

[§ 1340.202 as amended by Am. 59, 8 F.R. 11689, effective 8-21-43]

§ 1340.203 *Adjustable pricing.* Any person may agree to sell at a price which can be increased up to the maximum price in effect at the time of delivery; but no person may, unless authorized by the Office of Price Administration, deliver or agree to deliver at prices to be adjusted upward in accordance with action taken by the Office of Price Administration after delivery. Such authorization may be given when a request for a change in the applicable maximum price is pending, but only if the authorization is necessary to promote distribution or production and if it will not interfere with the purposes of the Emergency Price Control Act of 1942, as amended. The authorization may be given by the Administrator or by any official of the Office of Price Administration to whom the authority to grant such authorization has been delegated. The authorization will be given by order, except that it may be given by letter or telegram when the contemplated revision will be the granting of an individual application for adjustment.

[§ 1340.203 as amended by Am. 57, 8 F.R. 10936, effective 8-10-43]

§ 1340.204 *Evasion.* The price limitations set forth in this Maximum Price Regulation No. 120 shall not be evaded, whether by direct or indirect methods, in connection with an offer, solicitation, agreement, sale, delivery, purchase or receipt of or relating to bituminous coal alone or in conjunction with any other commodity or by way of commission, service, transportation, or other charge, or discount, premium or other privilege, or by tying-agreement or other trade understanding, or by the making of excessive charges for trucking or othewise.

§ 1340.205 *Records and reports.* (a) Every producer and distributor making a sale of bituminous coal and every person making a purchase of bituminous coal from a producer or distributor in the course of trade or business, on and after May 18, 1942, shall keep for inspection by the Office of Price Administration for a period of not less than two years complete and accurate records of each such sale or purchase showing the date thereof, the name and address of the buyer and of the person making the sale, the size, brand or trade name and quantity of the bituminous coal sold or purchased together with the name of the mine at which it originated and the mine index number of such mine; the method of transportation employed in the delivery thereof, and the price received or paid therefor.

[Paragraph (a) as amended by Am. 16, 7 F.R. 6272, effective 8-17-42]

(b) Not later than June 1, 1942, every producer and distributor of bituminous coal shall file with the Bituminous Coal Division, United States Department of the Interior, Washington, D. C., a statement setting forth: (1) the rate of interest, if any, charged on delinquent accounts or on any note, trade acceptance or other evidence of indebtedness accepted in payment of an account during the period October 1–15, 1941, inclusive; and (2) the charges, if any, made for any special services during the period October 1–15, 1941, inclusive, together with a description of the special service rendered. Statements filed with the Bituminous Coal Division of the Department of the Interior pursuant to this section prior to 12:01 a. m., August 24, 1943, shall be deemed to have been filed with the Office of Price Administration.

[Paragraph (b) as amended by Am. 59, 8 F.R. 11689, effective 8-21-43]

(c) Persons affected by Maximum Price Regulation No. 120 shall submit such other reports and keep such other records as the Office of Price Administration may from time to time require.

(d) Persons subject to this Maximum Price Regulation No. 120 shall not be required to observe the provisions of paragraph (b) of § 1499.13 of the General Maximum Price Regulation.[5]

[Paragraph (d) added by Am. 16, 7 F.R. 6272, effective 8-17-42]

(e) Except where previously filed with the Bituminous Coal Division, every producer operating any mine the daily average capacity of which exceeds 50 net tons, shall for such mine file with the Solid Fuels Branch, Office of Price Administration, Washington, D. C., Form B. C. D. Nos. 288 and 350, issued by the Bituminous Coal Division, for each of the months April to July, 1943, inclusive.

Every producer for each such mine shall also file with the Solid Fuels Branch, OPA Form No. 653:499—Report of Operating Data Bituminous Coal Mines, issued by the Office of Price Administration, for the month of August 1943, and for each month thereafter, within thirty days after the close of the month for which the form is filed.

[Paragraph (e) added by Am. 60, 8 F.R. 11755, effective 8-23-43 and amended by Am. 65, 8 F.R. 13175, effective 10-1-43]

§ 1340.206 *Enforcement.* (a) Persons violating any provision of this Maximum Price Regulation No. 120 are subject to the criminal penalties, civil enforcement actions, and suits for treble damages, provided for by the Emergency Price Control Act of 1942.

(b) Persons who have evidence of any violation of this Maximum Price Regulation No. 120 or any price schedule, regulation or order issued by the Office of Price Administration or of any acts or practices which constitute such a violation are urged to communicate with the nearest field or regional office of the Office of Price Administration or its principal office in Washington, D. C.

[Paragraph (b) as amended by Am. 59, 8 F.R. 11689, effective 8-21-43]

§ 1340.206a *Licensing.* The provisions of Licensing Order No. 1,[6] licensing all persons who make sales under price control, are applicable to all sellers subject to this regulation or schedule. A seller's license may be suspended for violations of the license or of one or more applicable price schedules or regulations. A person whose license is suspended may not, during the period of suspension, make any sale for which his license has been suspended.

[§ 1340.206a added by Supplementary Order 72, 8 F.R. 13244, effective 10-1-43]

§ 1340.207 *Petitions for amendment and applications for adjustment.* (a) The Administrator may by order grant an adjustment of maximum prices to any producer who shows to the satisfaction of the Administrator that the sale of its mine's entire production at the maximum prices would return a realization less than the mine's representative costs of production.

(b) Any person seeking relief, for which no provision is made in the foregoing paragraphs of this section, from a maximum price established under this Maximum Price Regulation No. 120 may present the special circumstances of his case in an application for an order of adjustment. Such an application shall be filed in accordance with Revised Procedural Regulation No. 1 as amended, and shall set forth the facts relating to the hardship to which such maximum price subjects the applicant, together with a statement of the reasons why he believes that the granting of relief in his case and in all like cases will not defeat or impair the policy of the Emergency Price Control Act of 1942 and of this Maximum Price Regulation No. 120 to eliminate the danger of inflation. No application for adjustment filed after November 25, 1942, will be granted under this paragraph (b). But an application may be granted if filed prior to December 31, 1943 and if based upon hardship resulting from the fact that minimum prices established and in effect as of 12:01 a. m. August 24, 1943 by the Bituminous Coal Division prior to the expiration of the Bituminous Coal Act of 1937, as amended, were higher than the maximum prices established by this regulation.

[Paragraph (b) as amended by Am. 69, effective 10-30-43]

(c) (1) In petitions filed pursuant to the provisions of this § 1340.207, the petitioner should submit and the Office of Price Administration will consider all relevant cost and realization data and the necessity, in terms of the war effort, for the granting of such adjustment or exception. Where cost of production varies from month to month or does not conform to average cost as indicated by monthly reports filed with the Bituminous Coal Division prior to 12:01 a. m., August 24, 1943, petitioner must indicate which cost is regarded as representative and the reasons therefor, and also the reasons for the fluctuations.

(2) The Office of Price Administration may require in connection with any such application, filed under the provisions of this section, full data on costs, profits and other relevant factors. Applications for adjustment or exception pursuant to this § 1340.207 shall be filed in accordance with Revised Procedural Regulation No. 1 as amended, issued by the Office of Price Administration.

[5] 8 F.R. 3096, 3849, 4347, 4480, 4724, 4978, 4848, 6047, 6962, 8511, 9025, 9891, 11955.

[6] 8 F.R. 13240.

(d) Persons seeking any modification of this Maximum Price Regulation No. 120 or the addition of an adjustment category not included therein may file petitions for amendment in accordance with the provisions of Revised Procedural Regulation No. 1, issued by the Office of Price Administration. The petitioners should submit and the Office of Price Administration will consider all relevant data with respect to costs and realizations and the necessity of the Amendment in view of the war effort and of the policy of the Emergency Price Control Act of 1942, as amended, and this Maximum Price Regulation No. 120, to eliminate the danger of inflation, and such other data that should be considered in connection with the proposed modification or the proposed addition of an adjustment category.

[§ 1340.207 amended by Am. 17, 7 F.R. 6523, effective 8-22-42; Am. 26, 7 F.R. 9783, effective 11-25-42; Am. 28, 7 F.R. 10581, effective 12-22-42; Am. 42, 8 F.R. 2501, effective 3-4-43; Am. 51, 8 F.R. 4717, effective 4-14-43; and Am. 59, 8 F.R. 11689, effective 8-21-43]

[NOTE: Procedural Regulation No. 6 (7 F.R. 5037, 5665) provides for the filing of applications for adjustment of maximum prices for commodities or services under Government contracts or subcontracts. Revised Supplementary Order No. 9 (8 F.R. 6175) makes the provisions of Procedural Regulation No. 6 applicable to all price regulations, with the exception of those which expressly prohibit such applications, and certain specific regulations listed in Revised Supplementary Order No. 9.]

[NOTE: Supplementary Order No. 28 (7 F.R. 9619) provides for the filing of applications for adjustment or petitions for amendment based on a pending wage or salary increase requiring the approval of the National War Labor Board.]

§ 1340.208 *Definitions.* (a) When used in this Maximum Price Regulation No. 120 the term:

(1) "Person" includes an individual, corporation, partnership, association, or other organized group of persons, or legal successor or representative of any of the foregoing, and includes the United States or any agency thereof, or any other government or any of its political subdivisions, or any agency of any of the foregoing.

(2) "Producer" means a person engaged in the business of mining bituminous coal or preparing bituminous coal at a preparation plant which is an adjunct of a mine or mines, and any person acting as an agent of a producer in the sale of bituminous coal.

(3) "Distributor" means a person who purchases bituminous coal for resale, and resells the same in not less than cargo or railroad carload lots, all as more fully defined in the Bituminous Coal Act of 1937, as amended, and rules and regulations issued thereunder, in effect as of midnight, August 23, 1943, and any person acting as an agent of such distributor in the sale of bituminous coal.

(4) "Bituminous coal" means Bituminous coal, as used in the Bituminous Coal Act of 1937, as amended, in effect as of midnight, August 23, 1943 and includes all bituminous, semibituminous, and subbituminous coal and shall exclude lignite, which is defined as a lignite coal having calorific value in British thermal units of less than seven thousand six hundred per pound and having a natural moisture content in place of the mine of 30 per centum or more.

(5) "Bituminous Coal Division" means the Bituminous Coal Division, United States Department of the Interior as established pursuant to the Bituminous Coal Act of 1937, as amended, and the President's Second Reorganization Plan of 1939 and as in effect as of midnight, August 23, 1943.

[Subparagraphs (3), (4) and (5) as amended by Am. 59, 8 F.R. 11689, effective 8-21-43]

[Subparagraphs (6) and (7) revoked and former (8) redesignated (6) and amended by Am. 59]

(6) "District Nos. 1 to 20, inclusive, 22 and 23" mean the geographical bituminous coal producing districts as defined in the Bituminous Coal Act, as amended, and as they have been modified as of midnight, August 23, 1943.

[Subparagraph (9) added by Am. 12, 7 F.R. 5835, effective 8-1-43 and redesignated (7) by Am. 59, 8 F.R. 11689, effective 8-21-43]

(7) "Bunker fuel" means bituminous coal used aboard a vessel for consumption thereon.

(b) Where reference is made to maximum prices for shipment by a particular method of transportation (e. g., "shipment by rail," "truck or wagon shipments") this does not include such shipments made for special uses to which special maximum prices are applicable (e. g., railroad fuel shipments) unless the reference so specifies.

[Paragraph (b) added and former (b) redesignated (c) by Am. 25, 7 F.R. 8650, effective 5-18-42]

(c) Unless the context otherwise requires, the definitions set forth in Section 302 of the Emergency Price Control Act of 1942 shall apply to other terms used herein.

§ 1340.209 [Revoked]

[§ 1340.209 revoked by Am. 59, 8 F.R. 11689, effective 8-21-43]

§ 1340.210 *Maximum price instructions.* (a) The following maximum price instructions are applicable to the maximum prices set forth in §§ 1340.212 to 1340.233, inclusive (Appendices A to V, inclusive).

(1) Where the effective minimum price now or hereafter established by the Bituminous Coal Division for any shipment of coals to any particular destination or market area or for any particular use, or for movement by any particular method of transportation is higher than the maximum price provided in this Maximum Price Regulation No. 120 for such a shipment, the particular shipment may be made at not more than the applicable minimum price, in effect midnight, August 23, 1943: *Provided,* That no such shipments shall be made after October 23, 1943 at higher than the maximum price established by this regulation.

[Subparagraph (1) as amended by Am. 59, 8 F.R. 11689, effective 8-21-43]

(2) The maximum prices established herein apply to all sales by a producer or a distributor at, or for delivery from, a mine or a preparation plant operated as an adjunct of a mine or mines to destinations in Continental United States, the Territories of Alaska and Hawaii, the District of Columbia and the Dominion of Canada: *Provided however,* That subject to such future regulation as may be appropriate, the maximum prices established herein shall not apply to the resale of United States bituminous coal by Canadian distributors who import such coal from the United States into the Dominion of Canada and resell it for consumption in the Dominion of Canada: *And provided further,* That maximum prices established herein do not apply to the sales of any bituminous coal for direct use as bunker fuel at points on the Great Lakes and their connecting or tributary waters or at tidewater as defined in § 1340.308 (a) (5) and (6) of Maximum Price Regulation No. 189, and set forth in § 1340.201, above. The provisions of this Maximum Price Regulation No. 120 shall apply, however, to the sale or delivery of bituminous coal to another person who resells the same for use as bunker fuel, even though the resale by such other person may be subject to the provisions of Maximum Price Regulation No. 189, Bituminous Coal Sold for Direct Use as Bunker Fuel, except that, where a supplier of bunker fuel does not have such fuel readily available (in storage or transportation facilities) to fuel a vessel at a particular port, and purchases the same from another bunker supplier who has such fuel available at that port, the sale by each supplier shall be subject to the maximum prices applicable under Maximum Price Regulation No. 189 to a direct sale by the particular supplier to the vessel in question.

[Subparagraph (2) amended by Am. 12, 7 F.R. 5835, effective 8-1-43; Am. 19, 7 F.R. 6744, effective 8-29-42; Am. 55, 8 F.R. 8504, effective 6-18-43; and Am. 69, effective 10-30-43]

(3) All designations or definitions of classifications, price groups, size groups, mine index numbers, mine names, freight origin group numbers, subdistricts, seams, market areas, and other terms used in § 1340.212 to 1340.233 (Appendices A to V, inclusive) are, unless otherwise specifically provided, the same designations or definitions of such matters set forth in the schedules of effective minimum prices for the same district, as established by the Bituminous Coal Division and as in effect midnight, August 23, 1943. References to classifications, price groups and size groups in §1340.212 to 1340.233 (Appendices A to V, inclusive) are to classifications, price groups and size groups in the schedule of effective minimum prices for the same district in respect to coal shipped all-rail for general commercial use, unless otherwise specifically noted. Thus, special classifications or size groups in the schedule of effective minimum prices for coal moving to a special use or by a particular method of transportation are not applicable, unless otherwise specifically stated.

In addition to references to minimum prices which were in effect on April 1, 1942, and October 1, 1942, wherever a minimum price is a necessary element in the determination of a maximum price established by this Regulation, then such minimum price as established by the Bituminous Coal Division and effective as of midnight, August 23, 1943, is hereby adopted for such purpose.

[Subparagraph (3) as amended by Am. 59, 8 F.R. 11689, effective 8-21-43]

(4) Where bituminous coal is delivered from a mine or preparation plant in any transportation facilities owned or subject to the control of the producer or a distributor or subsidiary or affiliate of the producer or distributor, or in any transportation facilities hired by the producer or a distributor, there may be added to the applicable maximum prices established herein a sum not in excess of the actual transportation costs incurred, determined in a reasonable manner, but in no event to exceed the lowest common carrier rate for a haul between the same points: *Provided,* That where deliveries are made in river transportation facilities owned or subject to the control of the producer or distributor, or a subsidiary or affiliate of the producer or distributor, via the Kanawha and/or Ohio Rivers and from mines or preparation plants located in District No. 8, there may be added to the applicable maximum price established herein a sum not in excess of the average charge made by the producer or distributor concerned, or by his subsidiary or affiliate during October 1941 for the same transportation service, or, in the case of a service which was not supplied in October 1941, the offering price therefor in October 1941: *And provided further,* That there may also be added by a producer or distributor, to the applicable maximum price established herein, an amount not in excess of the transportation tax imposed by section 620 of the Revenue Act of 1942 if said producer or distributor incurred such tax, and if he separately states the amount of the tax in sales to all purchasers except the United States or any agency thereof.

[Subparagraph (4) amended by Am. 8, 7 F.R. 5059, effective 7-2-42; Am. 20, 7 F.R. 6896, effective 5-18-42; Am. 27, 7 F.R. 10470, effective 12-1-42; and Am. 61, 8 F.R. 12659, effective 9-20-43]

(5) In the event of the mixture of two or more sizes or classifications of coal to which different maximum prices are applicable, the maximum price for such mixture shall be not more than the weighted average of the maximum prices for each of the component sizes or classifications of coal in said mixture, on a per net ton basis.

(6) Prior to the sale of bituminous coal for which price classifications or maximum prices have not been established, the producer thereof shall file with the Price Administrator an application for specific maximum prices or price classifications, or both. The producer shall state the mine index number, if any, and the classifications, if any, assigned by the Bituminous Coal Division to the mine and coals involved, along with the name, location and mine index number of the nearest mine in the same seam, the coals of which are classified and sold subject to specific maximum prices, along with such classifications and prices. If there is no such mine in the same seam, the same comparative information shall be given for the nearest mine in a substantially similar seam.

For thirty days after filing the application, such coals shall be sold at temporary maximum prices no higher than the maximum prices established by this regulation for the coals which are produced at the nearest mine in the same seam or in a substantially similar seam and which are classified and sold subject to specific maximum prices. After thirty days from the filing of the application, if no prior action has been taken by the Price Administrator, the classifications and prices as requested in the application shall be the classifications or maximum prices, or both, for such coals.

[Subparagraph (6) amended by Am. 59, 8 F.R. 11689, effective 8-21-43, and Am. 63, 8 F.R. 12933, effective 9-27-43]

(7) If no specific maximum price is established for a particular size of coal, the maximum price therefor shall be determined as follows:

(i) If the particular unpriced size is a lump size, the maximum price shall be not more than the lowest maximum price established for any size of lump coal for the same mine.

(ii) If the particular unpriced size is a double screened coal, the maximum price shall be not more than the lowest maximum price established for any double screened size of the same mine.

(iii) If the particular unpriced size is a resultant (slack or screening) size, the maximum price shall be not more than the lowest maximum price for any resultant (slack or screening) size of the same mine.

(8) (i) Except as otherwise specifically provided in this section or in §§ 1340.212 to 1340.233, inclusive, (Appendices A to V, inclusive) wherever lump, double screened coal, or mine-run coals (and coals of the same size group as mine-run coals) are crushed, the applicable maximum price shall be the maximum price for the size to which the coal is crushed, irrespective of whether the crushing is done by the producer for his own account or for the buyer's account.

(ii) Where a higher maximum price than is above provided for crushed coals is necessary to maintain or increase essential production of resultant screening sizes, a producer may file an application containing the information hereinafter set forth, requesting permission from the Office of Price Administration to sell crushed coal at straight run-of-mine prices. An original and two copies of such application shall be filed with the Office of Price Administration, Solid Fuels Branch, Washington, D. C. Immediately upon such filing, the producer has permission to charge maximum prices for crushed coal as is hereinafter provided. Such permission will terminate for failure to file the monthly reports as required in § 1340.210 (a) (8) (iv), below, or may be terminated at any time in the discretion of the Administrator. On deliveries of bituminous coal made after such filing, (*a*) where the applicant's lump coals, double screened coals, or mine-run coals (and coals of the same size group as mine-run coals) are mechanically crushed to sizes normally sold by the applicant as screenings, and such resultant sizes are not screened, altered or modified (exclusive of mechanical cleaning or preparation), the maximum price applicable thereto shall be the maximum price for the coal produced at the mine involved which is classified as straight run-of-mine coal; (*b*) where mine-run coals (and coals of the same size group as mine-run coal) are separated into two or more sizes and only the larger sizes are crushed, the smaller uncrushed sizes shall have the maximum price established under this Regulation for the particular sizes involved; but if such smaller uncrushed sizes are re-assembled with the crushed sizes and shipped as re-assembled, the maximum price applicable to such re-assembled product shall be the maximum price for that coal produced at the mine involved which is classified as straight run-of-mine coal.

(iii) Such application shall include, in affidavit form:

(*a*) A complete identification of the applicant, including business name and address, mine name, mine index number, and number of producing district;

(*b*) A statement of the manner in which the requested permission will facilitate the economical and efficient production of slacks or screenings.

(*c*) For each month from October 1, 1941 to and including the month prior to the month when the application is filed, a statement of:

(*1*) The tonnages of lump coals, double screened coals, mine-run coals (or coals of the same size group as mine-run coals) crushed and shipped in a crusher-run state, without subsequent rescreening, alteration or modification (exclusive of mechanical cleaning or preparation), which were shipped from the applicant's mine during each such month—indicating in each case the specific sizes before crushing and the specific sizes as shipped, the total tonnage of crushed coal shipped during the month and the percentage relation which this total tonnage bears to the total of all shipments of all sizes made during the month;

(2) The tonnages of each size of coal not crushed which were shipped from the applicant's mine during each such month;

(3) An estimate of the data specified in (*1*) and (2) for 30 days subsequent to the actual date on which the application is filed.

(iv) On or before the 20th day of the month following that in which the application was filed, and monthly thereafter, an original and 3 copies of a monthly report, in affidavit form, containing the information hereinafter set forth, shall be filed with the Solid Fuels Branch, Office of Price Administration, Washington, D. C. Such monthly reports shall contain:

(*a*) A complete identification of the reporting producer including business name and address, mine name, mine index number, and number of producing district, and a statement of the date or dates on which the aforesaid application was filed by the reporting producer;

(*b*) A statement of why continued permission to sell crushed coal as previously requested is necessary;

(*c*) For the month in which the application was filed and for each full month thereafter, a statement of:

(*1*) The tonnages of crushed coals which were shipped at prices in excess of the maximum prices applicable to natural screenings of the same top sizes (i. e., screenings not produced by crusher);

(2) The tonnages shipped of each size of coal not crushed:

(3) The same details with respect to such tonnages of crushed and uncrushed coals as are called for in § 1340.210 (a) (8) (iii) (c) above; and

(4) An estimate of the foregoing data specified in (1), (2) and (3) for 30 days subsequent to the actual date on which the report is filed.

[Subparagraph (8) amended by Am. 22, 7 F.R. 7670, 7914, effective 9-26-42 and Am. 59, 8 F.R. 11689, effective 8-21-43]

(9) The rate of interest on overdue accounts or on a note, trade acceptance or other form of indebtedness accepted in payment of an account shall not exceed the rate charged by the seller on similar transactions during the period of October 1-15, 1941, inclusive.

[Subparagraph (9) as amended by Am. 59, 8 F.R. 11689, effective 8-21-43]

(10) The charges made for any special service, including (specifically but not exclusively) calcium chloride treatment, specially prepared sizes, split cars (containing more than one size), box car loading, truck loading from pockets at the mine, bags and bagging, and the making of local or retail deliveries from the mine or preparation plant, shall not exceed the charges made for the same service during the period October 1-October 15, 1941, inclusive, except as otherwise provided in subdivision (i) below for the services indicated therein.

(i) The following special rule shall govern the compensation for distributors' service rendered in connection with lake or tidewater shipments of bituminous coal:

(a) Services rendered by a distributor in connection with bituminous coal shipments by lake or tidewater (e. g. assembling cargoes, chartering vessels, etc.) shall be deemed to constitute special services within the meaning of this paragraph, only if:

(i) The service charge does not exceed the weighted average of service charges made by him during October 1941 for similar transactions (e. g. for similar f. a. s., or f. o. b. dock or f. o. b. vessel transactions, as the case may be), or (if he had no similar transactions during that month) does not exceed the service charge which has been authorized pursuant to this subparagraph (10) (i) for similar transactions of a competing distributor.

(ii) The distributor has filed with the Office of Price Administration, Solid Fuels Branch, Washington, D. C., two copies of an application for permission to make a service charge for such transactions and has received such permission, and

(iii) The distributor separately identifies in his invoice the amount of the service charge authorized pursuant to this paragraph.

(b) The Office of Price Administration may approve, reject or modify a service charge proposed in an application filed pursuant to this paragraph (10) (i); approval shall be effective for all similar transactions of the applicant. Such application shall include on a form copied from the sample Form reproduced below:

(i) The purchase costs (showing discounts, allowances, or commissions), resale prices and service charges in October 1941 for the tonnages involved, such tonnages to be specifically identified by origin, grade, size, and name and address of persons from whom purchased; and the type of transaction (e. g., f. a. s., f. o. b. dock, f. o. b. vessel), and the capacity in which each transaction was handled by the applicant and the person selling to him;

(ii) The weighted average service charge per ton for each type of transaction, and

(iii) A breakdown, for each type of transaction, of the service elements involved in the total service rendered, together with a cents-per-ton allocation, insofar as practicable, of the total service-charge to each such service element:

Form approved
Budget Bureau No. 03-R34

OFFICE OF PRICE ADMINISTRATION

APPLICATION FOR PERMISSION TO MAKE A SERVICE CHARGE ON LAKE OR TIDEWATER SHIPMENTS

BITUMINOUS COAL DISTRIBUTORS

Distributor's Name: _____ Date: _____

Address: _____

Lake and Tidewater Shipments

PART A—PRICE, SERVICE CHARGE & TYPE OF TRANSACTION—BITUMINOUS COAL HANDLED, OCTOBER 1941

(All units per net ton)

Line No.	FOB mine prior to resale		Resale price fob mine	Total tons sold	Service charge per ton	Total service charge (Col. 4 times Col. 5)	Type of transaction
	Price before any discounts, allowances, commissions	Amount of discounts, allowances, commissions					
	1	2	3	4	5	6	7
1							
2							
*							
*							
*							
8							
9							
*							
*							
*							

PART B—IDENTITY OF OCTOBER 1941 BITUMINOUS COAL TRANSACTIONS[1]

Line No.	Origin of coal purchased			Grade and size[2]	Name and address of persons from whom tonnage was purchased as reported on each numbered line of PART A	Capacity in which handled	
	Mine district No.	Mine name	Mine index No.			By person from whom purchased	By applicant
	1	2	3	4	5	6	7
1							
2							
*							
*							
*							
8							
9							
*							
*							
*							

[1] The entries should correspond line for line with the entries in Part A.

[2] Give specific size dimensions in inches and fractions of inches or mesh including both top and bottom size of double screened coals.

PART C—WEIGHTED AVERAGE SERVICE CHARGE PER TON—OCTOBER 1941

F. A. S._____: F. O. B. Dock_____: F. O. B. Vessel_____: Other (specify)_____

NOTE: For each type of transaction shown in PART A, Column 7, compute the weighted average service charge by dividing the total of the service charges for each type as shown in PART A, Column 6, by the total net tons sold for such transactions as shown in PART A, Column 4.

PART D—ALLOCATION OF SERVICE CHARGES

Line No.	Service Elements and Charges by Type of Transaction[1]								
	Service elements	F. A. S. transactions	Charges	F. O. B. dock transactions	Charges	F. O. B. vessel transactions	Charges	Others (Specify)	Charges
1	Assembling cargoes								
2	Chartering vessels								
*									
*									
*									
8									
9									
*									
*									
*									
	Total:[2]	XXXX		XXXX		XXXX			

[1] Under each type of transaction check (x) the appropriate Service Elements and enter the charges therefor.

[2] The total charge for each type of transaction should not exceed the weighted average shown in PART C for each type of transaction.

[Subparagraph (10) as amended by Am. 46, 8 F.R. 2873, effective 3-6-43]

(11) Any distributor selling smithing coal for shipment direct from the mine to the purchaser may add to the maximum prices established for such coal in this Maximum Price Regulation No. 120 an amount not in excess of the weighted average margin realized by such distributor on similar sales or deliveries of smithing coal during the period October 1 to December 31, 1941. If such distributor made no sales or deliveries of smithing coal during said period then such distributor may use the weighted average margin realized during the next preceding three months' period in 1941 in which such sales were made. Such weighted average margin shall be determined by subtracting the average purchase price f. o. b. mine, weighted by tonnage, paid by such distributor for the smithing coal so sold or delivered by him in the period October 1 to December 31, 1941 from the average sale price, weighted by tonnage, but exclusive of transportation costs, which he received therefor: *Provided,* That not later than September 7, 1942, each distributor of smithing coal shall report the average margin obtained on sales of smithing coal during the period October 1 to December 31, 1941, determined in accordance with the provisions of this paragraph (a) (11) of § 1340.210 to the Bituminous Coal Division of the Department of the Interior of the United States at 734 Fifteenth Street NW., Washington, D. C.

[Subparagraph (11) added by Am. 11, 7 F.R. 5827, effective 7-27-42 and amended by Am. 59, 8 F.R. 11689, effective 8-21-43]

[NOTE: Revised Supplementary Order No. 34 (8 F.R. 12404) permits special packing expenses to be added to maximum prices on sales to procurement agencies of the United States.]

§ 1340.211 *Effective date of Maximum Price Regulation No. 120.* This Maximum Price Regulation No. 120 (§§ 1340.201 to 1340.233, inclusive) shall become effective May 18, 1942.

[Issued April 28, 1942]

§ 1340.211a *Effective dates of amendments.* [Effective dates of amendments are shown in notes following the parts affected.]

§ 1340.212 *Appendix A. Maximum prices for bituminous coal produced in District No. 1.* (a) The maximum prices set forth in paragraph (b) of this section are subject to the maximum price instructions provided in § 1340.210.

(b) The following maximum prices are established in cents per ton of 2,000 pounds f. o. b. transportation facilities at the mine or preparation plant from which delivery is made:

(1) *Maximum prices in cents per net ton for shipment to all destinations for all uses (including railroad fuel for uses other than locomotive fuel use) and by all methods of transportation, except as otherwise specifically provided in this appendix.*

Price classifications	Prices and size group Nos.				
	1	2	3	4	5
A	335	340	329	315	-------
B	329	340	329	310	-------
C	340	335	315	290	290
D	330	310	295	275	275
E	325	325	295	275	275
F	325	325	295	275	275
G	290	290	275	275	275
H	290	290	259	275	275
J	-------	-------	-------	275	275
K	-------	-------	-------	275	275

(2) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses.* The maximum prices for shipment by truck or wagon shall be the applicable effective minimum prices as of October 1, 1942, *plus* a sum not exceeding 65 cents for all size groups.

(3) *Maximum prices in cents per net ton for railroad fuel (exclusive of railroad fuel for other than locomotive fuel use).* The maximum prices for such railroad fuel shall be the applicable effective minimum prices as of October 1, 1942, for all-rail shipment, plus a sum not exceeding 50¢ per net ton.

(i) *Special price instructions.* (a) The maximum price for coals in Size Group 3 produced in Cambria County, Pennsylvania, by producers having no direct physical connections with the Conemaugh & Black Lick Railroad Company but with a rail shipping point on said railroad, at Johnstown, Pennsylvania, and whose coal is trucked to the railroad's locomotive coaling station at that point shall be $3.65 per net ton.

[Subparagraph (i) added by Am. 45, 8 F.R. 2997, effective 3-15-43]

(b) Maximum prices for Size Group 3 coals for railroad fuel use purchased by the Huntingdon and Broad Top Mountain Railroad and Coal Company and produced at mines in the Broad Top region of District No. 1 shall be $3.05 per net ton for coal produced in the Kelly seam and $3.20 per net ton for coal produced in the Barnett and Fulton seams.

[Subparagraph (b) added by Am. 56, 8 F.R. 9018, effective 7-6-43]

(4) *Maximum prices in cents per net ton for Smithing Coal.* The maximum prices from all mines in all size groups for Smithing Coal shall not exceed 425 cents per net ton.

(5) In the event any specific maximum price has been adjusted prior to February 14, 1943, the effective maximum price in such case shall not be determined by reference to sub-paragraphs 1, 2, 3, and 4 above, but must be computed by adding to such adjusted price the following sum:

(A) For methods of shipment and uses indicated in (1) above:

	Cents
Size groups 1 and 2	20
Size groups 3, 4, and 5	25

Exception: Classes E and F in size group 2 may increase 25 cents.

(B) For method of shipment and uses indicated in (2) above:

	Cents
Size groups 1 to 5, inclusive	25

(C) For use indicated in (3) above:

25 cents, *Provided, however,* That where relief has been granted prior to January 31, 1943, making railroad fuel prices equal to the commercial prices, the maximum prices applying shall be increased as indicated in subparagraph 5 (A) above.

(D) For use indicated in (4) above:

25 cents.

[Paragraph (b) amended by Am. 13, 7 F.R. 6169, effective 8-11-42, Am. 21, 7 F.R. 7777, effective 10-5-42; and Am. 36, 8 F.R. 1679, 2713, effective 2-4-43]

§ 1340.213 *Appendix B: Maximum prices for bituminous coal produced in District No. 2.* (a) The maximum prices set forth in paragraph (b) of this section are subject to the maximum price instructions provided in § 1340.210.

(b) The following maximum prices are established in cents per ton of 2,000 pounds f. o. b. transportation facilities at the mine or preparation plant from which delivery is made:

(1) *Maximum prices in cents per net ton for shipments to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix.*

Price classifications	Prices and size group Nos.									
	1	2	3	4	5	6	7	8	9	10
A	335	325	300	295	295	295	275	265	250	250
B	335	315	295	295	295	295	275	265	250	250
C	330	310	295	295	295	295	275	265	250	240
D	325	300	285	285	285	285	270	260	235	230
E	310	295	285	285	285	285	250	240	230	225
F	295	275	260	260	260	260	250	240	230	----
G	290	275	260	260	260	260	245	235	230	----
H	290	275	255	255	255	255	235	225	225	----
J	275	275	255	255	255	255	235	225	225	----
K	290	270	----	----	----	----	230	210	210	----
L	285	270	----	----	----	----	----	----	----	----

(2) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses.* The maximum prices for shipment by truck or wagon shall be the applicable effective minimum prices as of October 1, 1942, plus: a sum not exceeding 85 cents per net ton for Size Groups 1, 2, 3, 4, 5, 6 and 7, and a sum not exceeding 40 cents per net ton for Size Groups 8, 9, 10 and 11.

(3) *Maximum prices in cents per net ton for railroad fuel.* The maximum prices for all railroad fuel shall be the applicable effective minimum prices as of October 1, 1942 for all-rail shipment, plus a sum not exceeding 45 cents per net ton.

(4) *Maximum prices in cents per net ton for Smithing Coal.* The maximum prices from all mines in all size groups for Smithing Coal shall not exceed 425 cents per net ton.

(5) In the event any specific maximum price has been adjusted prior to January 31, 1943, the effective maximum price in such case shall not be determined by reference to sub-paragraphs 1, 2, 3 and 4 above, but must be computed by adding to such adjusted price the following sum:

(A) For methods of shipment and uses indicated in (1) above:

10 cents_____ Size group 3, Class C, E, F, G.
5 cents_____ Size group 3, Class B, D, H.
15 cents_____ Size group 4, Class B, C.
10 cents_____ Size group 4, Class E, F, G.
5 cents_____ Size group 4, Class D, H.
20 cents_____ Size groups 5, 6, 8, 9, 10, all classes.
30 cents_____ Size group 7, all classes.

(B) For method of shipment and uses indicated in (2) above:

25 cents_____ Size groups 1 to 11, inclusive.

(C) For use indicated in (3) above:

25 cents, *Provided, however,* That where relief has been granted prior to January 31, 1943, making railroad fuel prices equal to the commercial prices, the maximum prices applying shall be increased as indicated in sub-paragraph 5 (A) above.

(D) For use indicated in (4) above:

25 cents.

[Paragraph (b) amended by Am. 1, 7 F.R. 3901, effective 5-25-42; Am. 6, 7 F.R. 4540, effective 6-17-42; Am. 14, 7 F.R. 6218, effective 8-14-42; Am. 15, 7 F.R. 6265, effective 8-15-42; and Am. 34, 8 F.R. 1388, effective 1-30-43]

§ 1340.214 *Appendix C: Maximum prices for bituminous coal produced in District No. 3.* (a) The maximum prices set forth in paragraph (b) of this section are subject to the maximum price instructions provided in § 1340.210.

(b) The following maximum prices are established in cents per ton of 2,000 pounds f. o. b. transportation facilities at the mine or preparation plant from which delivery is made:

(1) *Maximum prices in cents per net ton for shipments to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix.*

Price classifications	Prices and size group Nos.									
	1	2	3	4	5	6	7	8	9	10
A	355	355	315	295	295	295	280	280	265	265
D	280	270	260	260	260	260	245	245	240	240
E	270	270	260	260	260	260	235	235	225	225
F	260	260	260	260	260	250	230	230	220	220
G	260	260	260	260	260	260	260	260	245	245
H	250	250	245	245	240	240	230	230	220	220
J	245	245	245	240	240	240	230	230	215	215

(2) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses.* The maximum prices for shipment by truck or wagon shall be the applicable effective minimum prices as of October 1, 1942, *plus* a sum not exceeding 40 cents for all size groups.

(3) *Maximum prices in cents per net ton for railroad fuel.* The maximum prices for all-railroad fuel shall be the applicable effective minimum prices as of October 1, 1942, for all-rail on-line shipments (without adjustments on account of price exceptions, freight differentials, and substitutions), plus a sum not exceeding 35¢ per net ton.

(4) In the event any specific maximum price has been adjusted prior to January 31, 1943, the effective maximum price in such case shall not be determined by reference to subparagraphs 1, 2 and 3 above, but must be computed by adding to such adjusted price the following sum:

(A) For methods of shipment and uses indicated in (1) above:

	Cents
Size group 2, Class F and G	5
Size group 3, Class D, E, and F	5
Size group 3, Class G	10
Size group 4, Class D and E	5
Size group 4, Class F, G, and J	10
Size group 5, Class D, E, G, H, and J	10
Size group 5, Class F	20
Size groups 6, 7, 8, 9, 10, all classes	20

(B) For method of shipment and uses indicated in (2) above:

	Cents
Size groups 1 to 7, inclusive	20

(C) For use indicated in (3) above:

20 cents: *Provided, however,* That where relief has been granted prior to January 31, 1943, making railroad fuel prices equal to the commercial prices, the maximum prices applying shall be increased as indicated in subparagraph 4 (A) above.

[Paragraph (b) amended by Am. 4, 7 F.R. 4342, effective 6-6-42; Am. 13, 7 F.R. 6169, effective 8-11-42; Am. 15, 7 F.R. 6265, effective 8-15-42; Am. 32, 7 F.R. 11012, effective 12-26-42; and Am. 36, 8 F.R. 1679, effective 2-4-43]

§ 1340.215 *Appendix D: Maximum prices for bituminous coal produced in District No. 4.* (a) The maximum prices set forth in paragraph (b) of this section are subject to the maximum price instructions provided in § 1340.210.

(b) The following maximum prices are established in cents per ton of 2,000 pounds f. o. b. transportation facilities at the mine or preparation plant from which delivery is made:

(1) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix.*

For shipment from all mines in freight origin districts	Prices and size group Nos.											
	1	2	3	4	5	6	7	8	9	10	11	12
Ohio No. 8	290	285	255	255	250	240	215	205	240	190	185	240
Cambridge	290	285	255	255	250	240	215	205	240	190	------	240
Hocking	330	325	285	285	285	255	235	225	255	225	------	255
Pomeroy	315	305	265	265	265	255	225	225	230	190	------	230
Crooksville	315	305	265	265	265	255	225	225	230	190	------	230
Jackson	330	325	285	285	285	255	235	225	255	225	------	255
Middle	310	305	280	275	270	260	230	220	260	215	------	260
Leetonia	310	305	280	275	270	260	230	220	260	215	------	260
Ohio Middle	290	285	265	265	245	245	245	235	245	210	------	245

(2) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses.* The maximum prices for shipment by truck or wagon shall be the applicable effective minimum prices as of October 1, 1942, *plus* a sum not exceeding 45 cents for Size Groups 1, 2, 3, 4 and 5; 30 cents for Size Group 6; and 25 cents for Size Groups 7 and 8.

(3) *Maximum prices in cents per net ton for railroad fuel.* The maximum prices for Railroad Fuel (including Lake Cargo Railroad Fuel) shall be the applicable effective minimum prices as of October 1, 1942, for all-rail on-line shipment *plus* a sum not exceeding 25 cents per net ton.

(4) In the event any specific maximum price has been adjusted prior to January 31, 1943, the effective maximum price in such case shall not be determined by reference to sub-paragraphs 1, 2 or 3 above, but must be computed by adding to such adjusted price the following sum:

(A) For the methods of shipment and uses indicated in (1) above; Fifteen (15) cents in Size Groups 1 to 4, inclusive; Twenty (20) cents in Size Groups 5 to 12, inclusive.

(B) For the methods of shipment and uses indicated in (2) above; Twenty (20) cents in all size groups.

(C) For use indicated in (3) above; Twenty (20) cents.

[Paragraph (b) amended by Am. 12, 7 F.R. 5835, effective 8-1-42; Am. 15, 7 F.R. 6265, effective 8-15-42; and Am. 36, 8 F.R. 1679, 2713, effective 2-4-43]

§ 1340.216 *Appendix E: Maximum prices for bituminous coal produced in District No. 5.* (a) The maximum prices set forth in paragraph (b) of this section are subject to the maximum price instructions provided in § 1340.210.

(b) The following maximum prices are established in cents per ton of 2,000 pounds f. o. b. transportation facilities at the mine or preparation plant from which delivery is made:

(1) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix.*

FOR SHIPMENTS FROM ALL MINES

	Prices and size group Nos.									
	1	2	3	4	5	6	7	8	9	10
R	560	555	530	520	505	485	410	455	400	250
W	------	------	------	545	530	510	435	------	425	325

(2) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses.*

FOR SHIPMENTS FROM ALL MINES

	Prices and size group Nos.									
	1	2	3	4	5	6	7	8	9	10
R	610	605	580	570	555	535	460	503	450	300
W	------	------	------	595	580	560	485	------	475	375

Explanation of symbols used:
R=Raw
W=Washed or otherwise mechanically cleaned.

(3) *Maximum prices in cents per net ton for railroad fuel.* The maximum prices for railroad fuel shall be the applicable effective minimum prices as of October 1, 1942, for all-rail on-line shipment plus a sum not exceeding 80 cents per net ton.

(4) In the event any specific maximum price has been adjusted prior to January 31, 1943, the effective maximum price in such case shall not be determined by reference to subparagraph above, but must be computed by adding to such adjusted price the following sum:

(i) For methods of shipment and uses indicated in (2) above forty (40) cents to Size Groups 2, 6, and 7.

[Paragraph (b) as amended by Am. 47, 8 F.R. 2021, effective 3-6-43]

§ 1340.217 *Appendix F: Maximum prices for bituminous coal produced in District No. 6.* (a) The maximum prices set forth in paragraph (b) of this section are subject to the maximum price instructions provided in § 1340.210.

(b) The following maximum prices are established in cents per ton of 2,000 pounds f. o. b. transportation facilities at the mine or preparation plant from which delivery is made.

(1) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix.*

	Prices and size group Nos.											
	1	2	3	4	5	6	7	8	9	10	11	12
For shipments from all mines	290	285	260	255	235	255	220	210	240	190	------	240

(2) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses.* The maximum prices for shipment by truck or wagon shall be the applicable effective minimum prices as of October 1, 1942, *plus* a sum not exceeding 45 cents for size groups 1, 2, 3, 4 and 5; 30 cents for size group 6; and 25 cents for size groups 7 and 8.

(3) *Maximum prices in cents per net ton for railroad fuel.* The maximum prices for Railroad Fuel (including lake cargo railroad fuel) shall be the applicable effective minimum prices as of October 1, 1942, for all-rail on-line shipment *plus* a sum not exceeding 25 cents per net ton.

(4) In the event any specific maximum price has been adjusted prior to January 31, 1943, the effective maximum price in such case shall not be determined by reference to subparagraphs 1, 2 or 3 above, but must be computed by adding to such adjusted price the following sum:

(A) For the methods of shipment and uses indicated in (1) above; fifteen (15) cents in size groups 1 to 3, inclusive, twenty (20) cents in size groups 4 to 12, inclusive.

(B) For the methods of shipment and uses indicated in (2) above; twenty (20) cents in all size groups.

(C) For use indicated in (3) above; twenty (20) cents.

[Paragraph (b) amended by Am. 15, 7 F.R. 6265, effective 8-15-42 and Am. 36, 8 F.R. 1679, effective 2-4-43]

§ 1340.218 *Appendix G: Maximum prices for bituminous coal produced in District No. 7.* (a) The maximum prices set forth in paragraph (b) of this section are subject to the maximum price instructions provided in § 1340.210.

(b) The following maximum prices are established in cents per ton of 2,000 pounds f. o. b. transportation facilities at the mine or preparation plant from which delivery is made:

DISTRICT NO. 7—LOW VOLATILE COALS

(1) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix—(i) Special price instructions.* (a) The maximum prices from Mine Index No. 133 for 100 mesh x 0 Dust shall not exceed 275 cents per net ton.

(b) The maximum prices for Refuse Coal from Mine Index Nos. 21, 94, 117, 126 and 207 shall not exceed 250 cents per net ton.

Price classifications	Prices and size group Nos.									
	1	2	3	4	5	6	7	8	9	10
A	410	420	385	330	320	355	325	295	290	235
B	370	380	375	315	300	325	295	290	280	285
C	370	350	375	315	300	350	295	290	285	280
D	345	365	335	315	300	320	295	285	280	275
E	345	360	330	310	275	330	------	280	275	270
F	340	360	------	------	------	------	------	275	270	265
G	------	------	------	------	------	------	------	275	270	265
H	------	------	------	------	------	------	------	275	270	265
I	------	------	------	------	------	------	------	275	270	265
J	------	------	------	------	------	------	------	275	270	265
Mine Index No. 316	475	495	470	415	395	450	390	365	------	------
Mine Index No. 289	------	------	------	------	------	------	------	275	------	------
Mine Index No. 703	------	------	------	------	------	------	------	275	------	------

(2) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses.* (i) The maximum prices for shipment by truck or wagon shall be the applicable effective minimum prices as of October 1, 1942, plus a sum not exceeding 90 cents per ton.

(ii) The maximum prices from Mine Index No. 316 shall not exceed the following:

	Size groups					
	1	2	3	4	5	6
Price	495	425	405	390	345	345

(3) *Maximum prices in cents per net ton for railroad locomotive fuel.* The maximum prices for Railroad Locomotive Fuel (including lake and tidewater cargo) shall be the applicable effective minimum prices as of October 1, 1942, for all-rail-on-line shipments (without adjustments on account of price exceptions, freight differentials, and substitutions), plus a sum not exceeding 70 cents per net ton.

(4) *Maximum prices in cents per net ton for Smithing Coal.* The maximum prices from all mines in all size groups of Smithing Coal shall not exceed 350 cents per net ton.

(5) In the event any specific maximum price has been adjusted prior to February 9, 1943, the effective maximum price in such case shall not be determined by reference to subparagraphs (1) and (2) above, but must be computed by adding to such adjusted price the following sum:

(i) For the methods of shipment and uses indicated in (1) above;

5 cents to all classifications in Size Groups 1 and 2.

10 cents to classifications A to C, inclusive, and 15 cents to classifications D and E in Size Group 3.

15 cents to all classifications in Size Group 4.

10 cents to classification A and 5 cents to classifications B to E, inclusive, in Size Group 5.

20 cents to all classifications in Size Group 6.

25 cents to classification A and 40 cents to classifications B to D, inclusive, in Size Group 7.

35 cents to classifications A to C, inclusive, 45 cents to classification D, 40 cents

to classification E and 35 cents to classifications F to J, inclusive, in Size Group 8.

35 cents to classifications A and B, 30 cents to classification C, 40 cents to classifications D and E and 35 cents to classifications F to J, inclusive, in Size Group 9.

35 cents to classifications A to D, inclusive, 40 cents to classification E and 35 cents to classifications F to J, inclusive, in Size Group 10.

(ii) For the methods of shipment and uses indicated in (2) above;

25 cents to Sizes Group 1 to 6, inclusive.

DISTRICT NO. 7—HIGH VOLATILE COALS

(6) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix*—(i) *Special price instruction.* Price classifications and Size Group Nos. 1 to 23, inclusive, shown below, are the applicable effective minimum price classifications and size group numbers as of October 1, 1942, for all-rail shipment.

Price classifications	Prices and size group Nos.																		
	1	2	3	4	5	6	7	8	9	10	15	16	17	18	19	20	21	22	23
A	415	415	415	395	375	350	330	315	285	385	285	285	285	285	285	280	280	265	245
B	415	390	390	370	350	325	290	285	280	350	285	285	285	285	285	280	280	260	240
C	395	375	375	360	350	325	290	285	280	350	280	280	280	280	280	280	280	260	240
D	385	375	375	360	350	325	290	285	280	350	280	280	280	280	280	280	255	255	230
E	375	365	355	350	350	320	290	285	275	350	280	280	275	275	270	270	270	245	225
F	365	360	350	350	335	320	290	285	275	325	275	275	275	275	270	270	270	245	225
G	365	355	340	340	325	315	290	285	275	325	275	275	275	275	265	260	260	240	----
H	360	355	340	340	325	315	290	275	260	320	-----	-----	-----	275	265	260	260	230	----
J	355	350	340	340	325	315	285	270	250	320	-----	-----	-----	275	265	260	260	225	----
K	345	340	330	330	325	315	285	265	250	320	-----	-----	-----	265	260	260	260	225	----
L	330	330	325	325	300	300	285	265	-----	320	-----	-----	-----	265	260	260	260	220	----
M	330	330	325	325	300	295	285	265	-----	320	-----	-----	-----	245	240	235	235	220	----
N	330	330	325	325	300	295	275	-----	-----	-----	-----	-----	-----	245	240	235	235	220	----
O	325	320	305	305	290	280	270	-----	-----	-----	-----	-----	-----	245	240	235	235	210	----
P	310	305	300	300	285	280	270	-----	-----	-----	-----	-----	-----	245	240	235	235	185	----
Q	310	305	300	300	-----	-----	-----	-----	-----	-----	-----	-----	-----	245	240	235	235	185	----
R	310	305	300	300	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	----
S	310	305	300	300	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	----

(7) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses.* The maximum prices for shipment by truck or wagon shall be the applicable effective minimum prices as of October 1, 1942, plus a sum not exceeding 65 cents for Size Groups 1, 2, and 3; 40 cents for Size Groups 4, 5, and 6.

(8) *Maximum prices in cents per net ton for railroad locomotive fuel.* The maximum prices for Railroad Locomotive Fuel (including lake and tidewater cargo) shall be the applicable effective minimum prices as of October 1, 1942, for all-rail on-line shipments (without adjustments on account of price exceptions, freight differentials, and substitutions), plus a sum not exceeding 40 cents per net ton.

(9) In the event any specific maximum price has been adjusted prior to February 9, 1943, the effective maximum price in such case shall not be determined by reference to sub-paragraphs (6) and (7) above, but must be computed by adding to such adjusted price the following sum:

(i) For the methods of shipment and uses indicated in (6) above;

15 cents to Size Groups 1 to 8, inclusive, and Size Group 10.

25 cents to Size Group 9, and Size Groups 15 to 23, inclusive.

(ii) For the methods of shipment and uses indicated in (7) above;

25 cents to Size Groups 1 to 6, inclusive.

[Paragraph (b) amended by Am. 13, 7 F.R. 6169, effective 8-11-42 and Am. 40, 8 F.R. 2030, 2273, effective 2-13-43]

§ 1340.219 *Appendix H: Maximum prices for bituminous coal produced in District No. 8.* (a) The maximum prices set forth in paragraph (b) of this section are subject to the maximum price instructions provided in § 1340.210.

(b) The following maximum prices are established in cents per ton of 2,000 pounds f. o. b. transportation facilities at the mine or preparation plant from which delivery is made:

DISTRICT NO. 8—HIGH VOLATILE COALS

(1) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix*—(i) *Special price instructions.* (a) Meadow Creek Coal Company, Solon Mine, Mine Index 432, shall take the same Maximum Prices for shipment to Market Area 114 (Nashville, Tennessee) as are applicable to that mine in all other Market Areas.

(b) Price classifications and size group Nos. 1 to 23, inclusive, shown below, are the applicable effective minimum price classifications and size group numbers for all-rail shipment.

Price classifications	Prices and size group numbers																		
	1	2	3	4	5	6	7	8	9	10	15	16	17	18	19	20	21	22	23
A	415	415	415	395	375	350	330	315	285	385	285	285	285	285	285	280	280	265	245
B	415	390	390	370	350	325	290	285	280	350	285	285	285	285	285	280	280	260	240
C	395	375	375	360	350	325	290	285	280	350	280	280	280	280	280	280	280	260	240
D	385	375	375	360	350	325	290	285	280	350	280	280	280	280	280	280	280	255	230
E	375	365	355	350	350	320	290	285	275	350	280	280	275	275	270	270	270	245	225
F	365	360	350	350	335	320	290	285	275	325	275	275	275	275	270	270	270	245	225
G	365	355	340	340	325	315	290	285	275	325	275	275	275	275	265	260	260	240	----
H	360	355	340	340	325	315	290	275	260	320	-----	-----	-----	275	265	260	260	230	----
J	355	350	340	340	325	315	285	270	250	320	-----	-----	-----	275	265	260	260	225	----
K	345	340	330	330	325	315	285	265	250	320	-----	-----	-----	265	260	260	260	225	----
L	330	330	325	325	300	300	285	265	-----	320	-----	-----	-----	265	260	260	260	220	----
M	330	330	325	325	300	295	285	265	-----	320	-----	-----	-----	245	240	235	235	220	----
N	330	330	325	325	300	295	275	-----	-----	-----	-----	-----	-----	245	240	235	235	220	----
O	325	320	305	305	290	280	270	-----	-----	-----	-----	-----	-----	245	240	235	235	210	----
P	310	305	300	300	285	280	270	-----	-----	-----	-----	-----	-----	245	240	235	235	185	----
Q	310	305	300	300	-----	-----	-----	-----	-----	-----	-----	-----	-----	245	240	235	235	185	----
R	310	305	300	300	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	----
S	310	305	300	300	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	----

(2) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses (exclusive of Cannel Coal).* The maximum prices for shipment by truck or wagon shall be the applicable effective minimum prices as of October 1, 1942, plus a sum not exceeding 65 cents for Size Groups 1, 2, 3, 4 and 5; 40 cents for Size Groups 6, 7 and 8.

Stoker double screened coal with top size not exceeding 1¼" and bottom size less than 1¼" which is now included in Size Group No. 5 in the Effective Minimum Price Schedule for District No. 8 for truck shipment, may be sold at maximum prices not exceeding those applicable to Size Group No. 10 coal which is now included in the Schedule of Effective Minimum Prices for District No. 8 for rail shipment from the same mine.

(3) *Maximum prices in cents per net ton for Railroad Locomotive Fuel.* The maximum prices for Railroad Locomotive Fuel (including lake and tidewater cargo) shall be the applicable effective minimum prices as of October 1, 1942, for all-rail on-line shipments (without adjustments on account of price exceptions, freight differentials, and substitutions), plus a sum not exceeding 40 cents per net ton.

(4) *Maximum prices in cents per net ton for Cannel Coal.* The maximum prices for rail, truck or wagon shipments to all destinations and for all uses, shall be the applicable effective minimum prices as of October 1, 1942, plus a sum not exceeding 70 cents per net ton for mines in the Logan Subdistrict, and 45 cents per net ton for mines in all other subdistricts for lump, egg and chip sizes; and 35 cents for machine cuttings in all subdistricts.

(5) In the event any specific maximum price has been adjusted prior to February 17, 1943, the effective maximum price in such case shall not be determined by reference to subparagraphs (1) and (2) above, but must be computed by adding to such adjusted price the following sum:

(i) For the methods of shipment and uses indicated in (1) above;

25 cents to Size Group 9, and Size Groups 15 to 23, inclusive.

15 cents to Size Groups 1 to 8, inclusive, and Size Group 10.

(ii) For the methods of shipment and uses indicated in (2) above;

25 cents to Size Groups 1 to 8, inclusive.

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(6) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix.*

Price classifications	Prices and size group numbers									
	1	2	3	4	5	6	7	8	9	10
A	410	420	385	330	320	355	325	295	290	285
B	370	380	375	315	300	355	325	295	290	285
C	370	380	375	315	300	350	295	290	285	280
D	345	305	355	315	300	350	295	285	280	275
E	345	360	350	310	275	330	.....	280	275	270
F	340	360	.....	.....	.....	.....	.....	275	270	265
G	.....	.....	.....	.....	.....	.....	.....	275	270	265
H	.....	.....	.....	.....	.....	.....	.....	275	270	265
I	.....	.....	.....	.....	.....	.....	.....	275	270	265
J	.....	.....	.....	.....	.....	.....	.....	275	270	265

(7) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses.* (a) The maximum prices for shipment by truck or wagon shall be the applicable effective minimum prices as of October 1, 1942, plus a sum not exceeding 90 cents per ton.

(8) *Maximum prices in cents per net ton for Railroad Locomotive Fuel.* The maximum prices for Railroad Locomotive Fuel (including lake and tidewater cargo) shall be the applicable effective minimum prices as of October 1, 1942, for all-rail on-line shipments (without adjustments on account of price exceptions, freight differentials, and substitutions), plus a sum not exceeding 70 cents per net ton.

(9) *Maximum prices in cents per net ton for Smithing Coal.* The maximum prices from all mines in all size groups for Smithing Coal shall not exceed 350 cents per net ton.

(10) In the event any specific maximum price has been adjusted prior to February 9, 1943, the effective maximum price in such case shall not be determined by reference to subparagraphs (6) and (7) above, but must be computed by adding to such adjusted price the following sum:

(i) For the methods of shipment and uses indicated in (6) above;

5 cents to all classifications in Size Groups 1 and 2.

10 cents to classifications A to C, inclusive, and 15 cents to classifications D and E in Size Group 3.

15 cents to all classifications in Size Group 4.

10 cents to classification A and 5 cents to classifications B to E, inclusive, in Size Group 5.

20 cents to all classifications in Size Group 6.

25 cents to classification A and 40 cents to classifications B to D, inclusive, in Size Group 7.

35 cents to classifications A to C, inclusive, 45 cents to classification D, 40 cents to classification E and 35 cents to classifications F to J, inclusive, in Size Group 8.

35 cents to classifications A and B, 30 cents to classification C, 40 cents to classifications D and E and 35 cents to classifications F to J, inclusive, in Size Group 9.

35 cents to classifications A to D, inclusive, 40 cents to classification E and 35 cents to classifications F to J, inclusive, in Size Group 10.

(ii) For the methods of shipment and uses indicated in (7) above;

25 cents to Size Groups 1 to 8, inclusive.

[Paragraph (b) amended by Am. 18, 7 F.R. 6524, effective 8-22-42; Am. 24, 7 F.R. 8354, effective 10-19-42; Am. 29, 7 F.R. 10780, effective 12-26-42; Am. 32, 7 F.R. 11012, effective 12-26-42; and Am. 40, 8 F.R. 2030, 2273, effective 2-13-43]

§ 1340.220 *Appendix I: Maximum prices for bituminous coal produced in District No. 9.* (a) The maximum prices set forth in paragraph (b) of this section are subject to the maximum price instructions provided in § 1340.210.

(b) The following maximum prices are established in cents per ton of 2,000 pounds f. o. b. transportation facilities at the mine or preparation plant from which delivery is made:

(1) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix.*

	Prices and size group numbers																										
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29
All 14th seam and stray seam mines	270	250	245	240	240	230	225	220	215	205	205	205	185	180	125	.....	215	210	210	210	210	210	205	200	175	165	160	155	155
All 6th seam mines	250	270	260	250	250	240	225	225	220	300	300	300	245	215	140	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	235	275	275	275
All 9th and 11th seam mines and mines in seams not specifically mentioned above	225	225	215	210	210	210	210	200	195	185	185	185	165	165	110	110	215	210	210	220	220	220	220	215	160	165	165	160	160

(2) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses.* The maximum prices for shipment by truck or wagon shall be the applicable effective minimum price as of October 1, 1942, plus a sum not exceeding 35 cents per net ton.

(3) *Maximum prices in cents per net ton for railroad locomotive fuel use.*

	Prices and size group numbers																										
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29
	210	210	210	210	210	210	210	210	210	185	185	185	165	165	110	110	210	185	165	185	185	185	165	165	110	165	165	110	110

(4) In the event any specific maximum price has been adjusted prior to February 15, 1943, the effective maximum price in such case shall not be determined by reference to sub-paragraphs 1, 2 or 3 above, but must be computed by adding to such adjusted price the following amount in cents per net ton as shown for each size group.

(A) For methods of shipment and uses indicated in (1) above:

	Size group numbers																										
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29
All 14th seam and stray seam mines	.....	.....	.....	5	15	10	15	15	15	15	15	15	15	15	15	.....	15	15	15	15	15	15	15	15	15	15	15	15	15
All 6th seam mines	.....	.....	.....	5	5	10	15	15	15	15	15	15	15	15	15	.....	.....	.....	.....	.....	.....	.....	.....	.....	15	15	15	15	15
All 9th and 11th seam mines and mines in seams not specifically mentioned above	.....	.....	.....	5	15	10	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15

(B) For method of shipment and uses indicated in (2) above:

15 cents - - - - - - - - All Size Groups

(C) For use indicated in (3) above:

15 cents - - ----- - - All Size Groups

[Paragraph (b) as amended by Am 41 8 F.R 2284 effective 2-20-43]

§ 1340 221 *Appendix J: Maximum prices for bituminous coal produced in District No 10* (a) The maximum prices set forth in paragraph (b) of this section are subject to the maximum price instructions provided in § 1340.210

(b) The following maximum prices are established in cents per ton of 2 000 pounds f o b transportation facilities at the mine or preparation plant from which delivery is made:

(1) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix*

For shipment from all mines in price groups shown below	Prices and size-group numbers																												
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29
No																													
1-2	335	330	330	300	300	270	260	275	255	245	255	255	215	205	155	105	260	255	265	270	305	295	245	235	215	230	230	295	200
3	295	295	295	280	270	265	260	255	260	250	250	215	215	205	155	105	260	255	255	255	290	280	235	225	205	225	215	225	190
4	295	295	295	280	270	265	245	255	250	240	240	240	185	175	120	105										195	185		
5	260	260	260	235	230	225	215	215	220	210	210	210	175	165	110	95										185	175		
6	235	235	235	220	215	210	200	200	220	210	210	210	175	165	110	95										185	175		
7	260	260	260	250	250	235	225	230	---	---	---	---	---	---	---	---	230	225	225	225	225	215	215	205	180	---	---	---	---
8	335	335	335	310	300	280	260	270	255	245	245	245	220	210	175	125	265	260	260	260	255	245	245	235	215	230	220	230	195
9	---	---	---	---	---	---	260	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	
10 16-17 18-19-20-21-22	245	240	240	210	195	195	190	190	220	215	215	215	185	175	115	95	230	225	225	225	220	215	210	200	170	195	185	185	
11	315	275	270	255	245	240	225	230	230	225	225	225	175	165	110	95	270	265	265	265	260	250	195	185	155	185	175	185	
12 13-23	245	240	240	210	205	205	200	200	215	215	215	215	165	160	105		225	220	220	235	225	215	200	190	160	175	170		
14 15	300	300	300	260	250	235	265	255	260	255	255	255	235	185	140		265	260	260	260	260	250	250	240	210	245	195		
24-25-26	245	245	245	225	215	210	220	205	215	210	210	210	180	170	115		235	230	235	235	215	205	205	195	170	290	180		
27-28	255	250	245	230	220	210	220	205	---	---	---	---	---	---	---		255	250	250	260	230	220	220	210	175	---	---		
29	300	300	300	295	290	290	285	280	295	290	290	290	240	230	145		260	265	285	285	255	245	245	230	235	260	240		
30	285	285	285	275	270	270	270	260	260	255	245	265	245	235	180		260	255	285	285	275	265	265	255	225	255	245		
31	410	410	410	300	295	290	280	275	425	425	425	425	285	270	215		310	305	305	305	305	295	295	285	255	295	280		
32	285	285	285	275	270	270	265	260	260	255	265	265	255	235	180											255	245		
33	280	280	280	270	265	250	260	260	270	265	265	265	235	225	100		---	---	---	---	---	---	---	---	---	245	235		
34	280	280	280	270	265	250	250	220	255	250	250	250	220	210	155		245	240	240	240	240	230	230	220	190	230	220		

(2) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses* The maximum prices for shipment by truck or wagon shall be the applicable effective minimum price as of October 1 1942 plus a sum not exceeding 80 cents per net ton.

(3) *Maximum prices in cents per net ton for railroad locomotive fuel except as otherwise specifically provided herein* The maximum prices for all railroad locomotive fuel shall be the applicable effective minimum prices as of October 1, 1942 for all-rail on line shipments (without adjustments on account of price exceptions and freight differentials but with application of railroad locomotive fuel Price Instructions A B C, D and E) plus a sum not exceeding 35¢ per net ton: *Provided* That the maximum price on screenings (as defined in railroad locomotive fuel Price Instruction C of the Effective Minimum Price Schedule for District No 10) for all railroad fuel uses for shipment from all mines in Price Groups 12 and 13 shall be the maximum railroad locomotive fuel price for such screenings

(i) *Special price instructions* (a) Maximum prices for railroad locomotive fuel shall not exceed:

Size:	*Maximum price*
6" x 1¼ egg	$2 25
Mine run	2 20
Screenings	1 85

for the following mines:

Mine	Producer	Mine Index No
Beckemeyer	Beckemeyer Coal Co	6
East	Citizens Coal Co. Frank B Mieman, Trustee Breese Ill	43
North	Clinton County Mining Co. Breese, Ill	1317
Eureka No. 2	Forsyth Carterville Coal Co St Louis Mo	45
Golden Rule	Golden Rule Coal Company	59
Richland	Groom Coal Co., Belleville, Ill	149
Lenzburg	Lenzburg Coal Co , Lenzburg Ill	83
New National	New National Coal & Mining Co., Belleville Ill	1074
Muren No. 6	North Side Coal Co., Belleville Ill	103
Vinegar Hill	Vinegar Hill Coal Company	179
Washed Coal Co	Washed Coal Co. of Belleville, Belleville Ill	188
Okay Mine	Smith Coal Co. of Marissa Ill	114
Little Oak Mine	Mascoutah Coal & Mining Co	86
Bullock Mine	Burnwell Coal Co	20

[Subparagraph (i) added by Am 50, 8 F.R 4258 effective 4-1-43, and amended by Am 66 8 F.R 13293 effective 10-4-43 and Am 68 8 F.R 14009 effective 10-18-43]

(4) In the event any specific maximum price has been adjusted prior to February 15, 1943, the effective maximum price in such case shall not be determined by reference to sub-paragraphs 1, 2 and 3 above, but must be computed by adding to such adjusted price the following sum:

(A) For the methods of shipment and uses indicated in (1) above; No increase in Size Groups 1 to 8, inclusive; Fifteen (15) cents in Size Groups 9 to 29, inclusive.

(B) For the methods of shipment and uses indicated in (2) above; Ten (10) cents in all size groups.

(C) For use indicated in (3) above; Ten (10) cents.

[Paragraph (b) amended by Am. 13, 7 F.R. 6169, effective 8-11-42; Am. 23, 7 F.R. 7942, effective 10-5-42; and Am. 41, 8 F.R. 2284, effective, 2-20-43]

§ 1340.222 *Appendix K: Maximum prices for bituminous coal produced in District No. 11.* (a) The maximum prices set forth in paragraph (b) of this section are subject to the maximum price instructions provided in § 1340.210.

(b) The following maximum prices are established in cents per ton of 2,000 pounds f. o. b. transportation facilities at the mine or preparation plant from which delivery is made.

(1) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix.*

For shipment from all mines in price groups shown below	Prices and size group Nos.																											
	1	2	3	4	5	6	7	8	9	10, 11, 12	13	14	15	16	17	18, 19, 20	21	22	23	24	25	26	27	28, 29	30	31	32	33	34
No. 1	235	235	235	205	200	200	185	185	210	205	175	165	120	90	225	220	225	210	215	205	175	185	175	145	-----	-----	-----	-----	-----
No. 2	235	235	235	205	200	200	185	185	210	205	175	165	120	90	-----	-----	-----	-----	-----	-----	-----	185	175	145	-----	-----	-----	-----	-----
No. 3	240	240	240	223	220	210	195	200	210	205	175	165	120	90	-----	-----	-----	-----	-----	-----	-----	185	175	145	-----	-----	-----	165	-----
No. 4	240	240	240	225	220	210	195	200	210	205	175	165	120	90	-----	-----	-----	-----	-----	-----	-----	185	175	145	-----	-----	-----	165	-----
No. 5	300	300	300	270	270	270	245	245	255	245	205	195	165	125	260	255	240	230	225	215	185	225	215	180	215	205	185	-----	-----
No. 6	305	310	335	300	295	290	260	285	285	295	210	200	160	130	250	245	215	235	225	220	190	230	270	175	-----	-----	-----	175	-----
No. 7	275	260	255	230	230	220	195	195	210	205	180	170	145	115	225	220	220	210	205	195	170	190	180	150	-----	-----	-----	-----	-----
No. 8	235	235	235	215	210	205	195	210	205	200	180	170	135	110	225	220	225	210	215	205	175	200	190	160	205	195	165	155	195
No. 9	240	235	235	220	220	210	195	210	215	210	180	170	125	95	230	225	225	210	215	205	175	190	180	150	195	185	160	155	185
Price Group No. 10—except Mine Index No. 115	235	235	235	215	210	205	190	195	210	205	185	170	125	100	220	215	215	205	210	195	165	190	180	140	195	185	160	155	185
Mine Index No. 115	250	250	250	230	225	220	205	210	225	220	185	170	125	100	220	215	215	205	210	195	165	190	180	140	200	190	160	145	185
No. 11	235	235	235	215	210	205	190	195	210	205	180	170	125	95	220	215	215	205	205	195	165	190	180	140	200	190	160	145	185
No. 12	235	235	235	215	210	205	190	195	210	205	180	170	125	95	220	215	215	205	205	195	165	190	180	140	200	190	160	145	185
No. 13	280	275	270	260	260	255	250	245	255	245	205	195	165	125	260	255	235	225	225	215	185	225	215	180	-----	-----	-----	170	220
No. 14	305	335	325	295	285	275	260	285	260	290	190	205	130	100	235	215	230	240	220	210	180	225	215	180	-----	-----	-----	170	220
No. 15	340	300	290	270	265	265	260	260	240	230	195	185	125	95	-----	-----	-----	-----	-----	-----	-----	225	215	180	-----	-----	-----	180	230
No. 16	320	295	275	265	255	315	260	260	240	230	195	185	130	100	-----	-----	-----	-----	-----	-----	-----	215	205	170	-----	-----	-----	-----	-----
No. 17	295	295	275	265	260	255	250	250	230	220	195	185	130	100	-----	-----	-----	-----	-----	-----	-----	215	205	170	-----	-----	-----	-----	-----
No. 18	265	260	245	225	210	210	195	195	210	205	195	185	145	115	225	220	225	215	205	195	165	205	195	165	-----	-----	-----	-----	-----
No. 19	260	255	250	215	210	205	190	195	210	205	190	170	145	115	225	220	215	205	205	195	165	190	180	150	-----	-----	-----	-----	-----
No. 20	300	300	300	270	270	270	245	245	255	245	205	195	165	125	260	255	240	230	225	215	185	225	215	180	215	205	185	-----	-----

(2) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses.* The maximum prices for shipment by truck or wagon shall be the applicable effective minimum price as of October 1, 1942, plus a sum not exceeding 65 cents per net ton.

(3) *Maximum prices in cents per net ton for railroad locomotive fuel.* The maximum prices for all railroad (on-line and off-line) locomotive fuel shall be $2.35 per net ton f. o. b. transportation facilities at the mine for mine run, modified mine run, lump and double screened coals; $1.80 per net ton f. o. b. transportation facilities at the mine for screenings not larger than 2".

Special price instructions. (i) The above prices shall not be subject to any adjustments on account of price exceptions and/or freight differentials, but shall not affect the permission to substitute on railroad locomotive fuel orders as provided in the Effective Minimum Price Schedule for District No. 11.

(ii) All special definitions of sizes appearing in the railroad locomotive fuel section of the Effective Minimum Price Schedule for District No. 11 shall be applicable in determining maximum prices for railroad locomotive fuel.

(iii) An additional charge of 15 cents per net ton may be added to the above maximum prices for railroad locomotive fuel when railroad locomotives are coaled at mine tipples.

(4) In the event any specific maximum price has been adjusted prior to March 15, 1943 (except the adjustments made in Amendment No. 7, effective June 22, 1942 to Maximum Price Regulation No. 120 in Price Groups 5 and 10) the effective maximum price in such case shall not be determined by reference to subparagraphs 1, 2 and 3 above, but must be computed by adding to such adjusted price the following sum:

(A) For the methods of shipment and uses indicated in (1) above.

Price Groups 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 18 and 19; No increase in Size Groups 1 to 8 inclusive; Twenty (20) cents in Size Groups 9 to 34 inclusive.

Price Groups 5, 6, 13, 14, 15, 16, 17 and 20; Twenty (20) cents in all Size Groups.

(B) For the methods of shipment and uses indicated in (2) above; Twenty (20) cents in all Size Groups.

(C) For use indicated in (3) above; Twenty (20) cents.

[Paragraph (b) amended by Am. 7, 7 F.R. 4700, effective 6-27-42; Am. 30, 7 F.R. 10993, effective 5-16-42; and Am. 48, 8 F.R. 3216, effective 3-13-43]

§ 1340.223 *Appendix L: Maximum prices for bituminous coal produced in District No. 12.* (a) The maximum prices set forth in paragraph (b) of this section are subject to the maximum price instructions provided in § 1340.210.

(b) The following maximum prices are established in cents per ton of 2,000 pounds f. o. b. transportation facilities at the mine or preparation plant from which delivery is made:

(1) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix.* The maximum prices for shipments by all methods of transportation (including truck or wagon) shall be:

The applicable effective minimum prices as of April 1, 1942, plus, for Size Groups 1, 2, 3, 4, 6 and 7, no more than 60 cents; and, for Size Groups 5, 8, 9 and 10, no more than 40 cents.

For Size Group 7-A, the applicable effective minimum price as of June 12, 1943, plus no more than 55 cents.

[Subparagraph (1) as amended by Am. 64, 8 F.R. 12934, effective 9-27-43]

(2) *Maximum prices in cents per net ton for railroad fuel.* The maximum prices for railroad fuel shall be the applicable effective minimum prices as of April 1, 1942 (without adjustments on account of price exceptions, freight differentials and substitutions), plus a sum not exceeding 30 cents per net ton: *Provided,* That where a mine is on-line to more than one railroad, the highest minimum price shall be applicable in determining the maximum price.

[Subparagraph (2) as amended by Am. 69, effective 10-30-43]

§ 1340.224 *Appendix M: Maximum prices for bituminous coal produced in District No. 13.* (a) The maximum prices set forth in paragraph (b) of this section are subject to the maximum price instructions provided in § 1340.210.

(b) The following maximum prices are established in cents per ton of 2,000 pounds f. o. b. transportation facilities at the mine or preparation plant from which delivery is made:

(1) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix*—(i) *Special price instruction for mines not listed.* Where no specific maximum price appears for a particular mine index number, the maximum price therefor shall be the same as herein established for the mine index number appearing in the Schedule of Effective Minimum Prices, producing similar and/or comparably priced coals for their respective size groups.

DISTRICT NO. 13

Subdistrict No. 1, mine index No.	Prices and size group Nos.																					
	Domestic and industrial											Mine run		Steam								
	Lump and egg					Nut		Chestnut						Washed					Raw			
						Washed	Raw	Washed	Raw	Washed	Raw	Washed	Raw									
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 51, 53, 54	345	345	------	------	------	340	------	325	------	325	------	335	325	335	335	335	330	325	325	325	325	320	315
67, 68	355	355	------	------	------	345	------	355	------	355	------	350	345	355	355	355	355	355	340	345	345	345	345
59, 61, 62, 63, 64, 65, 66, 71, 72, 73	365	365	------	------	------	355	------	355	------	355	------	365	355	365	365	365	360	355	355	345	350	345	345
55, 56, 57, 70, 663, 1453	410	410	------	------	------	395	------	385	------	385	------	375	365	375	375	375	370	355	365	365	365	360	345
74, 75, 76, 77, 78	385	385	------	------	------	375	------	395	------	------	------	390	380	390	390	390	380	370	380	380	380	370	360
1, 2, 7, 9, 10, 11, 12, 14, 15, 17	520	520	------	510	510	470	------	390	------	390	------	380	370	380	380	380	365	355	370	370	370	355	345
16, 18, 19, 20, 21, 22, 23, 1306	540	540	------	530	------	480	470	395	385	395	385	395	385	395	395	395	395	395	385	385	395	385	385
3, 4, 6, 8	640	640	------	640	------	520	------	400	390	400	390	390	380	380	380	380	355	355	370	370	370	345	345
5, 58, 69	470	470	------	460	------	445	------	385	------	375	------	375	365	375	375	375	365	355	365	365	365	355	345

(2) *Maximum prices in cents per net ton for shipment by truck or wagon from Subdistrict No. 2 to all destinations for all uses.* The maximum prices for shipment by truck or wagon shall be the applicable effective minimum prices as of October 1, 1942, plus a sum not exceeding 90 cents per net ton.

(3) *Maximum prices in cents per net ton for railroad locomotive fuel.* Maximum prices for railroad locomotive fuel shall be the applicable effective minimum prices as of October 1, 1942, plus a sum not exceeding 65 cents per net ton: *Provided, however,* That when railroad locomotive fuel is sold to the St. Louis—San Francisco Railway for consignment west of the Mississippi River, the maximum price is $3.15 per net ton.

(4) *Maximum prices in cents per net ton for blacksmithing coal.* The maximum prices for blacksmithing coal shall not exceed 540 cents per net ton.

(5) In the event any specific maximum price has been adjusted prior to May 1, 1943, the effective maximum price in such case shall not be determined by reference to subparagraphs (1) to (4) inclusive above, but must be computed by adding to such adjusted price a sum not exceeding 40 cents per net ton.

(6) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix*—(i) *Special price instruction for mines not listed.* Where no specific maximum price appears for a particular mine index number, the maximum price therefor shall be the same as herein established for the mine index number appearing in the Schedule of Effective Minimum Prices, producing similar and/or comparably priced coals for their respective size groups.

DISTRICT NO. 13

Subdistricts Nos. 3 and 5, Mine index No.	Prices and size group Nos.													
	Domestic and industrial													
	1	2	3	4	5	6	7	8	9	10	11	12	13	14
99	410	410	400	330	320	315	305	305	305	275	275	265	245	210
26, 93, 94, 95, 97	370	405	335	325	330	335	320	305	335	300	295	315	275	235
91, 98, 99	375	375	335	295	320	315	305	305	305	285	285	275	270	235

(7) *Maximum prices in cents per net ton for shipment by truck or wagon from Subdistrict No. 4 to all destinations for all uses.* The maximum prices for shipment by truck or wagon shall be the applicable effective minimum prices as of October 1, 1942, plus a sum not exceeding 90 cents per net ton.

(8) *Maximum prices in cents per net ton for railroad fuel.* Maximum prices for railroad fuel shall be the applicable effective minimum prices as of October 1, 1942, plus a sum not exceeding 65 cents per net ton.

(9) *Maximum prices in cents per net ton for blacksmithing coal.* The maximum prices for blacksmithing coal shall not exceed 515 cents per net ton.

(10) In the event any specific maximum price has been adjusted prior to May 1, 1943, the effective maximum price in such case shall not be determined by reference to subparagraphs (6) to (9) inclusive above, but must be computed by adding to such adjusted price a sum not exceeding 40 cents per net ton.

(12) Washed egg coal in Size Group 4 produced at the Hull Mine Index No. 44, may be sold and purchased at a price not exceeding $3.40 per net ton f. o. b. mine for shipment by rail.

[Subparagraph (12) added by Am. 58, 8 F.R. 11806, effective 8-30-43]

[Paragraph (b) amended by Am. 3, 7 F.R. 4336, effective 6-6-42; Am. 12, 7 F.R. 5835, effective 8-1-42; Am. 13, 7 F.R. 6169, effective 8-11-42; Am. 33, 8 F.R. 926, effective 1-23-43; Am. 49, 8 F.R. 3855, effective 3-27-43; and Am. 54, 8 F.R. 6443, effective 5-15-43]

§ 1340.225 *Appendix N: Maximum prices for bituminous coal produced in District No. 14.* (a) The maximum prices set forth in paragraph (b) of this section are subject to the maximum price instructions provided in § 1340.210.

(b) The following maximum prices are established in cents per ton of 2,000 pounds f. o. b. transportation facilities at the mine or preparation plant from which delivery is made:

(1) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix.*

Price classifications	Prices and size group Nos.																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
A	625	600	600	575	460	575	575	550	545	600	600	600	550	285	285	285	285	485	215	530
B	....	....	475	550	455	555	575	575	470	550	550	550	520	170	170	170	....	490	....	....
C	....	....	460	555	....	550	570	570	470	500	495	....	320	....	150	150	....	470	....	....
D	....	....	460	545	....	540	555	540	470	490	450	....	350	....	....	....	....	450	....	....
E	....	....	460	525	....	535	540	540	470	480	450	....	....	....	....	....	....	425	....	....
F	....	....	445	525	....	515	515	515	470	480	450	....	....	....	....	....	....	420	....	....
G	....	....	....	505	....	515	515	515	470	470	435	....	....	....	....	....	....	400	....	....
H	....	....	....	505	....	515	515	515	470	460	435	....	....	....	....	....	....	395	....	....
I	....	....	....	500	....	510	510	510	470	425	425	....	....	....	....	....	....	395	....	....
J	....	....	....	490	....	505	505	505	460	420	420	....	....	....	....	....	....	390	....	....
K	....	....	....	470	....	505	505	505	460	415	415	....	....	....	....	....	....	375	....	....
L	....	....	....	470	....	500	500	500	455	405	....	405	....	....	....	....	....	370	....	....
M	....	....	....	....	....	500	500	500	420	385	....	....	....	....	....	....	....	365	....	....
N	....	....	....	....	....	490	490	490	....	370	....	....	....	....	....	....	....	360	....	....
O	....	....	....	....	....	490	490	490	....	....	....	....	....	....	....	....	....	350	....	....
P	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	330	....	....
Q	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	320	....	....

(i) *Special price instructions.* (a) The maximum price for lump coal (solid shot) with a bottom size larger than 2½", when produced at mines in Production Groups 2 to 9, inclusive, shall be the maximum price which is applicable generally under § 1340.225 (b) (1) for Size Group 3 plus 15 cents per net ton.

[Subparagraph (i) added by Am. 53, 8 F.R. 5477, effective 4-29-43]

(2) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses.* The maximum prices for shipment by truck or wagon shall be the applicable effective minimum prices as of October 1, 1942, *plus* a sum not exceeding 55 cents per net ton.

(3) *Maximum prices in cents per net ton for railroad fuel (exclusive of railroad fuel for other than locomotive fuel use).* The maximum prices for such railroad fuel shall be the applicable effective minimum prices as of October 1, 1942, for all-rail on-line shipments (without adjustments on account of price exceptions, freight differentials, and substitutions), *plus* a sum not exceeding 5 cents per net ton.

(4) In the event any specific maximum price has been adjusted prior to February 1, 1943, the effective maximum price in such case shall not be determined by reference to subparagraphs 1, 2 and 3, but must be computed by adding to such adjusted price the following sum:

(i) For methods of shipment and use indicated in (1) above:

20 cents per net ton.

(ii) For methods of shipment and uses indicated in (2) above:

20 cents per net ton

(iii) For use indicated in (3) above:

20 cents per net ton

[Paragraph (b) amended by Am. 10, 7 F.R. 5607, effective 7-21-42, and Am. 37, 8 F.R. 1747, effective 2-6-43]

§ 1340.226 *Appendix O: Maximum prices for bituminous coal produced in District No. 15.* (a) The maximum prices set forth in paragraph (b) of this section are subject to the maximum price instructions provided in § 1340.210.

(b) The following maximum prices are established in cents per ton of 2,000 pounds f. o. b. transportation facilities at the mine or preparation plant from which delivery is made:

(1) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix.*

(i) *Special price instruction.* (a) Where the minimum price established by the Bituminous Coal Division and in effect as of midnight August 23, 1943 for any shipment of coals to any particular destination or market area or for any particular use, or for movement by any particular method of transportation is higher than the maximum price provided in this section for such a shipment, the particular shipment may be made at not more than such applicable minimum price; which shall be the base minimum price listed in the minimum price schedule promulgated by the Division and in effect at that time without regard to any deductions which are permitted to be made therefrom: *Provided,* That no such shipment shall be made after December 31, 1943 at more than the maximum price established by this regulation.

[Subparagraph (a) amended by Am. 59, 8 F.R. 11069, effective 8-21-43 and Am. 69, effective 10-30-43]

Production group No.	Prices and size group Nos.														
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1	320	320	320	320	325	295	290	275	270	270	270	235	200	170	140
2	295	295	295	295	295	275	260	255	235	245	210	200	165	140	
3	280	280	280	280	295	270	255	245	220	220	220	205	160	140	
4	335	335	335	335	310	295	280	275	335	270	270	235	.....	205	140
5	330	330	330	330	305	290	275	270	330	265	265	230	.....	200	140
6	385	385	385	385	.....	.....	.....	.....	.....	375	375	375	.....	.....	.....
7	575	575	575	520	.....	450	.....	385	370	240	.....	.....	.....	135	.....
8	500	500	500	440	.....	400	.....	360	325	200	.....	.....	.....	140	.....
9	500	500	500	440	.....	400	.....	360	325	200	.....	.....	.....	140	.....
10	340	340	340	330	.....	305	.....	290	270	175	260	.....	.....	145	.....
11	315	315	315	335	.....	300	.....	285	295	215	255	.....	.....	165	110
13	350	350	350	350	.....	.....	.....	.....	350	290	.....	.....	.....	.....	.....

(2) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses.* The maximum prices for shipment by truck or wagon shall be the applicable effective minimum prices as of October 1, 1942, plus a sum not exceeding 65 cents per net ton.

(3) *Maximum prices in cents per net ton for railroad locomotive fuel.*

Sizes of Coal	Prices and production group Nos.										
	1	2	3	4	5	6	7	8	9	10	11
Railroad locomotive fuel (any size not specifically listed below)	270	270	270	310	310	285	270	270	270	270	270
3" x ¼" unwashed											260
3" x 0 washed or 3" x ¼" unwashed	260										
3" x 0 stoker screenings with ½ of fines removed		255									
2" x ¼" unwashed											245
2" x 0 washed or 2" x ¼" unwashed	245										
2" x 0 washed or unwashed		230	230								
1¼" x 0 washed or 1¼" x ¼" unwashed	230										
1¼" x 0 unwashed										230	230

(4) *Maximum prices in cents per net ton for Oklahoma Smithing Coal from Production Group No. 12 to all destinations.*

(i) Crushed mine run, bulk; 595 cents per net ton.

(ii) Crushed mine run, sacked, 745 cents per net ton.

(iii) Lump, over 2½", 645 cents per net ton.

(5) In the event any specific maximum price has been adjusted prior to March 10, 1943, the effective maximum price in such case shall not be determined by reference to subparagraphs (1), (2), (3) or (4), but must be computed by adding to such adjusted price the following sum:

(i) For methods of shipment and use indicated in (1) above: 15 cents per net ton.

(ii) For methods of shipment and uses indicated in (2) above: 15 cents per net ton.

(iii) For use indicated in (3) above: 15 cents per net ton.

(iv) For use indicated in (4) above: 15 cents per net ton.

[Paragraph (b) amended by Am. 2, 7 F.R. 3901, effective 5-25-42; Am. 31, 7 F.R. 11008, effective 12-31-42; and Am. 44, 8 F.R. 2920, effective 3-6-43]

§ 1340.227 *Appendix P: Maximum prices for bituminous coal produced in District No. 16.* (a) The maximum prices set forth in paragraph (b) of this section are subject to the maximum price instructions provided in § 1340.210.

(b) The following maximum prices are established in cents per ton of 2,000 pounds f. o. b. transportation facilities at the mine or preparation plant from which delivery is made:

(1) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix.*

	Prices and size group Nos.												
	1	2	3	4	5	6	8	9	10	11	12	13
Subdistrict No. 1, all mines	510	460	460	460	435	410	320	275	215	205	185	355
Subdistrict No. 2, all mines	500	450	445	470	445	420	325	275	215	205	185	330
Subdistrict No. 4, all mines	485	435	435	460	435	420	330	280	215	205	185	330
Subdistrict No. 6, all mines	420	390	390	415	390	370	315	270	215	205	185	315
Subdistrict No. 8, all mines	450	380	380	405	380	360	315	265	215	205	185	305
Subdistrict No. 9, all mines	440	380	380	405	380	360	315	265	215	205	185	305
Subdistrict No. 10, all mines	410	360	360	385	360	340	305	255	215	205	185	280
Subdistrict No. 11, all mines	305	255	255	270	245	----	----	----	125	----	----	250

(2) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses.* The maximum prices for shipment by truck or wagon shall be the applicable effective minimum prices as of April 1, 1942, *plus* a sum not exceeding 30 cents in all size groups.

(3) *Maximum prices in cents per net ton for railroad fuel.* The maximum prices for railroad fuel shall be the applicable effective minimum prices as of April 1, 1942, *plus* a sum not exceeding 10 cents per net ton.

§ 1340.228 *Appendix Q: Maximum prices for bituminous coal produced in District No. 17.* (a) The maximum prices set forth in paragraph (b) of this sections are subject to the maximum price instructions provided in § 1340.210.

(b) The following maximum prices are established in cents per ton of 2,000 pounds f. o. b. transportation facilities at the mine or preparation plant from which delivery is made.

(1) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix.*

From all mines—	Prices and size group Nos.																	
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	19
Subdistrict No.:																		
1	515	510	495	475	455	435	430	----	390	360	315	315	235	----	180	145	355	355
2	530	525	520	495	470	450	445	----	405	360	335	325	245	----	235	205	365	320
3	465	455	455	455	430	435	430	----	380	340	315	305	245	----	235	205	355	320
4	520	515	510	495	470	435	420	----	395	335	310	300	235	----	205	175	355	320
5	465	465	450	460	435	405	395	----	365	340	315	315	215	----	205	200	355	320
6	460	450	440	440	410	410	390	----	370	345	----	----	245	230	225	205	355	320
7	450	440	440	440	370	370	350	----	365	345	----	----	265	230	225	185	355	320
8	400	390	390	390	345	345	335	----	305	355	----	----	270	250	245	205	355	320
9*	440	430	430	430	420	420	340	380	380	355	305	----	265	245	240	250	355	325
*Exception for Sugarite Mine	490	480	480	480	470	445	365	----	390	380	----	----	265	245	240	270	356	325
10	490	480	480	480	470	445	365	----	390	380	----	----	265	245	240	270	355	325
11	475	465	440	440	395	385	385	----	335	300	----	----	240	225	215	175	355	315
12	425	425	415	385	360	370	355	----	350	315	----	----	235	230	220	180	355	290
15	425	415	395	395	370	335	320	----	370	330	240	----	235	230	220	180	355	290
16	390	380	360	360	335	300	285	----	335	320	----	----	230	225	215	175	345	280
18	450	440	420	420	395	360	355	----	405	370	----	----	240	235	225	185	356	290
19 and 20	495	485	465	465	440	405	390	----	415	330	----	----	265	255	245	210	370	305

(2) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses.* The maximum prices for shipment by truck or wagon shall be the applicable effective minimum prices as of October 1, 1942 (without adjustments on account of price exceptions), plus a sum not exceeding 35 cents in all size groups.

(3) *Maximum prices in cents per net ton for railroad locomotive fuel except as otherwise specifically provided herein.* The maximum prices for railroad locomotive fuel shall be the applicable effective minimum prices as of October 1, 1942, for all-rail, on-line shipments (without adjustments on account of price exceptions, freight differentials, and substitutions), plus a sum not exceeding 55 cents per net ton; *Provided,* That where a mine is on-line to more than one railroad, the highest minimum price shall be applicable in determining the applicable maximum price; *Provided, further,* That when railroads purchase coals for railroad locomotive fuel use in sizes which are not included in size groups specifically priced in the effective minimum price schedule for railroad locomotive fuel, or purchase coal for any use other than railroad locomotive use, the maximum price for such railroad fuel shall be the all-rail maximum price for the grade and size shipped, as specified in (1) above.

(4) *Maximum prices in cents per net ton for Smithing Coal.* The maximum prices from all mines in all size groups for Smithing Coal shall not exceed 605 cents per net ton.

[Paragraph (b) amended by Am. 5, 7 F.R. 4404, effective 5-18-42 and Am. 43, 8 F.R. 2497, effective 2-25-43]

§ 1340.229 *Appendix R: Maximum prices for bituminous coal produced in District No. 18.* (a) The maximum prices set forth in paragraph (b) of this section are subject to the maximum price instructions provided in § 1340.210.

(b) The following maximum prices are established in cents per ton of 2,000 pounds f. o. b. transportation facilities at the mine or preparation plant from which delivery is made:

(1) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix.*

From all mines	Prices and size group Nos.															
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Subdistrict No. 1	505	530	----	520	----	470	445	405	340	----	310	280	225	----	425	455
Subdistrict No. 2	540	515	505	490	505	460	450	420	360	----	300	280	240	425	425	----
Subdistrict No. 3	----	450	----	----	----	----	----	385	285	----	235	----	185	----	----	----
Subdistrict No. 4	535	485	----	----	----	----	----	----	----	----	245	----	----	----	335	335
Subdistrict No. 5	----	535	----	----	----	----	----	535	----	385	----	285	----	----	485	----
Subdistrict No. 6	----	485	----	----	----	435	----	385	300	----	335	255	235	----	435	----
Subdistrict No. 7	----	485	----	----	----	----	----	385	300	----	275	255	210	----	----	----
Subdistrict No. 8	----	335	----	----	----	----	----	----	235	185	135	----	----	----	285	----

(2) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses.* The maximum prices for shipment by truck or wagon shall be the applicable effective minimum prices as of October 1, 1942, plus a sum not exceeding 110 cents in all size groups.

(3) *Minimum prices in cents per net ton for railroad fuel.* The maximum prices for railroad fuel shall be those shown in subparagraph (1) above for Size Group No. 16: *Provided,* That where no maximum price is specified therein for a particular subdistrict, or where the size of coal involved is not included in Size Group No. 16 the maximum price for such railroad fuel shall be the commercial all-rail maximum price for the grade and size involved.

Exception to (2) *above:* Sub-District No. 2.

Producer	Mine	Mine index	Movement	Prices and size group Nos.															
				1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Albuquerque & Cerrillos Coal Co.	Jones	11	Truck	555	---	520	505	520	495	465	435	365	---	315	295	295	460	---	---

[Paragraph (b) as amended by Am. 30, 8 F.R. 2023, effective 2-12-43]

§ 1340.230 *Appendix S: Maximum prices for bituminous coal produced in District No. 19.* (a) The maximum prices set forth in paragraph (b) of this section are subject to the maximum price instructions provided in § 1340.210.

(b) The following maximum prices are established in cents per ton of 2,000 pounds f. o. b. transportation facilities at the mine or preparation plant from which delivery is made:

(1) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix.*

From all mines—	Prices and size group Nos.																
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Subdistrict No.:																	
1	445	445	430	415	430	395	355	330	315	290	290	260	----	----	235	235	200
2	415	415	390	390	390	340	320	315	300	320	315	235	----	270	270	270	170
3	325	325	325	325	300	300	300	300	250	225	----	250	250	----	205	205	130
4	----	400	400	325	----	----	----	290	----	290	----	250	----	235	----	----	----
5	505	505	505	405	405	405	470	415	340	285	275	310	225	----	310	210	210
6	310	310	----	----	340	340	340	290	240	240	----	285	245	100	100	100	----
7	235	235	----	----	255	255	255	265	245	245	----	250	225	225	210	230	----
8	225	225	----	200	----	----	----	200	105	----	----	180	----	140	140	140	----
9	----	290	----	290	290	290	270	270	175	175	----	200	----	175	175	160	100

(2) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses.* The maximum prices for shipment by truck or wagon shall be the applicable effective minimum prices as of October 1, 1942, plus a sum not exceeding 75 cents in all size groups.

(3) *Maximum prices in cents per net ton for railroad fuel.* The maximum prices for all railroad fuel shall be the applicable effective minimum prices as of October 1, 1942 for all-rail on-line shipments (without adjustments on account of price exceptions, freight differentials, and substitutions), plus a sum not exceeding 30 cents per net ton: *Provided,* That where a mine is on-line to more than one railroad, the highest minimum price shall be applicable in determining the maximum price: *Provided, further,* That where a producer, or a subdistrict, does not have an established minimum price for railroad fuel, the maximum price for such coal shall be the all-rail maximum price for the grade and size shipped, as specified in (1) above.

(4) In the event any specific maximum price has been adjusted prior to February 15, 1943, the effective maximum price in such case shall not be determined by reference to subparagraphs 1, 2 or 3 above, but must be computed by adding to such adjusted price the following sum:

(i) For the methods of shipment and uses indicated in (1) above; Thirty (30) cents in all size groups.

(ii) For the methods of shipment and uses indicated in (2) above; Thirty (30) cents in all size groups.

(iii) For use indicated in (3) above; Fifteen (15) cents.

[Paragraph (b) as amended by Am. 43, 8 F.R. 2497, effective 2-25-43]

§ 1340.231 *Appendix T: Maximum prices for bituminous coal produced in District No. 20.* (a) The maximum prices set forth in paragraph (b) of this section are subject to the maximum price instructions provided in § 1340.210.

(b) The following maximum prices are established in cents per ton of 2,000 pounds f. o. b. transportation facilities at the mine or preparation plant from which delivery is made:

(1) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix.*

		Prices and size group Nos.														
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Subdistrict No. 1	All mines	393	395	375	370	375	370	310	290	290	245	245	225	310	235	235
Subdistrict No. 2 and Subdistrict No. 3	All mines	335	320	340	330	300	335	275	260	----	200	205	----	220	210	220

(2) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses.* The maximum prices for shipment by truck or wagon shall be the applicable effective minimum prices as of October 1, 1942, *plus* a sum not exceeding 55 cents for Size Groups 1, 2, 3, 4, 5, 6, 7, 8 and 9; and 65 cents for Size Groups 10, 11, 12, 13, 14 and 15.

(i) *Special price instruction.* (a) The maximum prices for shipment by truck or wagon for the Williams Mine (Mine Index No. 167) of L. J. Williams & Sons (L. J. Reed and Ross Williams) shall be as follows:

Size groups:	*Maximum prices*
3	$3.85
4	3.75
7	3.05
Size groups—Con.	
8	2.70
10	3.20
11	3.15
15	2.55

and the maximum prices for shipment by truck or wagon from all other mines in Iron County, Utah, in District No. 20 shall be as follows:

Size groups:	*Maximum prices*
3	$5.10
4	5.00
7	4.80
8	3.05
10	3.00
11	3.05
15	3.35

[Subparagraph (i) added by Am. 52, 8 F.R. 4718, effective 4-14-43]

[Paragraph (b) amended by Am. 36, 8 F.R. 1747, effective 2-6-43]

§ 1340.232 *Appendix U: Maximum prices for bituminous coal produced in District No. 22.* (a) The maximum prices set forth in paragraph (b) of this section are subject to the maximum price instructions provided in § 1340.210.

(b) The following maximum prices are established in cents per ton of 2,000 pounds f. o. b. transportation facilities at the mine or preparation plant from which delivery is made:

(1) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this appendix.*

[From all mines]

	Prices and size group Nos.												
	1	2	3	4	5	6	7	8	9	10	11	12	15
Subdistrict No. 1	440	440	440	430	425	375	325	295	300	190	155	130	270
Subdistrict No. 2	440	440	440	405	400	345	295	275	245	185	155	130	255
Subdistrict No. 7	435	435	410	385	385	360	335	260	185	------	135	115	------
Subdistrict No. 8	------	435	------	430	------	375	260	------	185	135	------	------	------
Subdistrict No. 9	440	440	440	------	425	------	325	------	270	205	------	130	------
Subdistrict No. 12	435	------	------	------	360	------	------	------	185	------	------	------	------

[Subparagraph (1) as amended by Am. 67, 8 F.R. 13706, effective 10-9-43]

(2) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses.* The maximum prices for shipment by truck or wagon shall be the applicable effective minimum prices as of October 1, 1942, *plus* a sum not exceeding 85 cents for Size Group 9, and 35 cents for Size Groups 1, 2, 3, 4, 5, 6, 7, 8, 10, 11 and 12.

Exception to (2) above:

Producers	Mine	Mine index	Movement	Prices and size group Nos.												
				1	2	3	4	5	6	7	8	9	10	11	12	15
SUBDISTRICT NO. 2																
Nye Coal Co. (S. R. Tandy)	Nye Coal Co.	247	Truck	450	450	450	---	400	---	300	275	250	160	145	125	---
SUBDISTRICT NO. 6																
Miller Bros.	Miller	201	Truck	---	500	---	---	---	---	---	---	---	---	280	---	---
SUBDISTRICT NO. 12																
Bennett, James N.	Oertel	215	Truck	---	700	---	---	---	---	---	---	370	150	---	---	---
Thornton, Albert H.	Kellogg	175	Truck	---	700	---	---	---	---	---	---	350	160	---	---	---

(3) *Maximum prices in cents per net ton for railroad fuel.* The maximum prices for all railroad fuel shall be the applicable effective minimum prices as of October 1, 1942, for all-rail on-line shipments (without adjustments on account of price exceptions, freight differentials, and substitutions), *plus* a sum not exceeding 30 cents per net ton: *Provided,* That where a mine is on-line to more than one railroad, the highest minimum price shall be applicable in determining the maximum price: *Provided, further,* That where a producer, or a sub-district, does not have an established minimum price for railroad fuel, the maximum price for such coal shall be the commercial all-rail maximum price for the grade and size shipped.

[Paragraph (b) amended by Am. 35, 8 F.R. 1629, effective 2-3-43]

§ 1340.233 *Appendix V: Maximum prices for bituminous coal produced in District No. 23.* (a) The maximum prices set forth in paragraph (b) of this section are subject to the maximum price instructions provided in § 1340.210.

(b) The following maximum prices are established in cents per ton of 2,000 pounds f. o. b. transportation facilities at the mine or preparation plant from which delivery is made:

(1) *Maximum prices in cents per net ton for shipment to all destinations for all uses and by all methods of transportation, except as otherwise specifically provided in this Appendix.*

[From all mines except as listed below]

		Prices and size group numbers																								
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26
Subdistrict A	Roslyn Field	----	585	575	545	----	----	----	565	----	560	----	530	500	----	----	450	----	----	490	490	430	----	405	395	----	370
Subdistrict B	Pierce County	----	585	585	----	----	----	585	----	----	----	----	----	500	----	----	----	----	----	490	490	455	440	----	385	----	----
Subdistrict C	Southwest Washington	495	485	460	----	415	----	----	415	----	----	----	390	315	----	345	345	----	----	335	325	325	----	330	210	----	335
Subdistrict D	Bellingham Field	555	545	510	445	----	520	490	----	----	505	----	460	425	415	----	415	----	----	----	----	----	----	----	265	----	----
Subdistrict E	McKay, Lawson Field	----	670	----	----	----	----	----	630	595	535	----	575	----	----	575	----	605	485	----	----	485	455	----	420	265	----
Subdistrict F	Renton Field	----	595	585	585	595	----	505	505	490	495	475	475	435	435	435	425	----	----	----	----	----	325	----	275	----	----
Subdistrict G	Cumberland Field	----	565	565	525	525	----	----	525	525	475	475	460	----	445	----	435	----	----	460	----	395	----	395	275	----	----
Subdistrict H	Healy River Field, Alaska	Excluded from Price Schedule																								
Subdistrict I	All Other Mines, Alaska																									
Subdistrict J	Riverton Field, Oreg.	----	520	----	----	----	----	----	----	----	370	----	----	----	220	----	----	----	----	----	----	----	----	----	270	----	----
Subdistrict K	Marshfield Field, Oreg.	----	520	----	----	----	----	----	----	----	420	----	----	----	320	----	----	----	----	----	----	----	----	----	270	----	----
Subdistrict L	Marion and Clackamas Counties, Oreg.	495	485	460	----	415	----	----	415	----	----	----	390	315	----	345	345	----	----	335	325	325	----	330	210	----	335

(2) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations for all uses.* The maximum prices for shipment by truck or wagon shall be the applicable effective minimum prices as of October 1, 1942, *plus* a sum not exceeding 85 cents for Size Groups 1 to 25, inclusive, except 18, and 110 cents for Size Group 18, except as otherwise shown below.

(3) *Maximum prices in cents per net ton for railroad fuel.* The maximum prices for all sizes of railroad fuel shall be those shown in subparagraph (1) above for size group No. 26: *Provided,* That where no maximum price is specified therein for a particular subdistrict, the maximum price for such railroad fuel shall be the commercial all-rail maximum price for the grade and size shipped.

Exceptions to (1) and (2) above:

Producer	Mine	Mine index	Movement	Prices and size group numbers																							
				1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
SUBDISTRICT D																											
Bellingham Coal Mines	Bellingham #1	3	Rail	555	545	510	445	----	520	490	----	490	505	----	490	423	415	----	415	----	----	----	----	----	----	----	[1] 355 [2] 265	----
			Truck	675	625	625	595	----	585	585	----	585	560	----	535	500	485	----	460	----	----	----	----	----	----	----	310	----
SUBDISTRICT E																											
Pacific Coast Coal Co	Black Diamond Mine	32	Rail	----	720	----	----	----	----	----	700	690	680	----	680	----	----	680	----	600	590	----	----	590	590	----	525	275
			Truck	----	720	----	----	----	----	----	700	690	680	----	680	----	----	680	----	600	590	----	----	590	590	----	525	----
Continental Coal Co., c/o James S. Ramage	McKay	9	Rail	----	775	----	----	----	----	----	630	695	595	----	575	----	600	575	----	570	570	----	----	520	495	----	420	320
			Truck	----	775	----	----	----	----	----	635	695	600	----	650	----	----	650	----	570	570	----	----	535	510	----	445	----
SUBDISTRICT F																											
Springbrook Mining Co. (A. F. Plant)	Springbrook	33	Rail	----	585	585	585	585	----	505	505	490	495	475	475	435	435	435	425	----	----	----	----	----	325	----	275	----
			Truck	----	600	600	560	560	----	585	560	560	535	510	510	485	470	470	460	----	485	----	----	----	435	----	285	----
Renton Mining Co., Inc. (c/o John S. Methven)	Talbot	150	Rail	----	585	585	585	585	----	505	505	490	495	475	475	435	435	435	425	----	----	----	----	----	325	----	275	----
			Truck	----	600	600	560	560	----	585	560	575	535	510	510	485	470	470	525	----	----	----	----	----	435	----	300	----
Consolidated Coal Mines, Inc.	Cedar Mountain #2	160	Rail	----	590	590	585	585	----	505	505	490	495	475	475	435	435	435	425	----	----	----	----	----	325	----	275	----
			Truck	----	625	625	560	560	----	585	560	560	535	500	510	485	470	470	460	----	----	----	----	----	435	----	295	----
SUBDISTRICT G																											
Franklin Gem Coal Co, (Geo. T. Wake, Jr.)	Franklin Gem	102	Rail	----	595	595	575	525	----	----	525	525	475	475	460	----	445	----	435	----	----	460	----	395	----	420	275	----
			Truck	----	600	600	610	560	----	----	560	560	510	510	485	----	470	----	460	----	----	485	----	435	----	460	310	----
Hyde Mines, Inc.	Hyde #2	161	Rail	----	670	----	----	----	----	----	630	595	535	----	575	----	----	575	----	505	485	----	----	485	485	----	420	235
			Truck	----	710	----	----	----	----	----	695	660	660	----	650	----	----	650	----	545	545	----	----	535	510	----	445	----

[1] When sold to Superior Portland Cement Co., Concrete, Skagit County, Wash., and Olympic Portland Cement Co., Bellingham, Whatcom County, Wash.
[2] For all other sales for rail shipment.

[Paragraph (b) amended by Am. 9, 7 F.R. 5560, effective 7-17-42; and Am. 35, 8 F.R. 1629, 2873, effective 2-3-43]

NOTE: The reporting and record-keeping requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued this 25th day of October 1943.

GEORGE J. BURKE,
Acting Administrator.

[F. R. Doc. 43-17282; Filed, October 25, 1943; 4:50 p. m.]

PART 1341—CANNED AND PRESERVED FOODS

[MPR 306,[1] Amdt. 18]

CERTAIN PACKED FOOD PRODUCTS

A statement of the considerations involved in the issuance of Amendment No. 18 to Maximum Price Regulation No. 306 has been issued and filed with the Division of the Federal Register.*

Maximum Price Regulation No. 306 is amended in the following respects:

1. Section 1341.553 (b) (10) is added to read as follows:

Item	Section	Appendix
(10) Sauerkraut	1341.584	B

2. Section 1341.584 (i) is added to read as follows:

(i) *Sauerkraut.* (1) The processor's maximum prices per dozen containers or other unit of sale of sauerkraut manufactured from cabbage of the 1943 crop, f. o. b. factory, for sales to other than government procurement agencies, shall be figured by the processor as follows. He shall:

(i) Determine the weighted average price per dozen containers or other unit of sale of sauerkraut charged by the processor, f. o. b. factory, for the same grade and container during the period from December 1, 1941, through March 31, 1942. "Weighted average price" means the total gross sales dollars charged for each grade and container divided by the number of dozens of containers or other units of sale sold of such grade and container. All sales contracts made in the regular course of business during the base period (December 1, 1941 through March 31, 1942) shall be included, regardless of the date of delivery, except sales contracts made with the United States. Sales contracts made at times other than during the base period shall not be included even though delivery was during the base period.

(ii) Subtract from the weighted average price figured under (i) the 1941 raw cabbage cost per dozen containers or other unit of sale. To determine the 1941 raw cabbage cost per dozen containers or other unit of sale, the processor shall:

(*a*) Figure the weighted average cost for cabbage of the 1941 crop by dividing the total amount paid for cabbage of the 1941 crop used in manufacturing sauerkraut by the total number of tons purchased; and

(*b*) Divide the figure so obtained by the dozen-container yield (for the container size being priced) or other unit of sale yield per ton as was obtained by him for the same item during the period from December 1, 1941 through March 31, 1942. The figure obtained by this division is the 1941 raw cabbage cost per dozen containers or other unit of sale being priced.

(iii) Add to the difference figured by making the subtraction under (ii) the 1943 raw cabbage cost per dozen containers or other unit of sale. To determine the 1943 raw cabbage cost per dozen containers or other unit of sale, the processor shall:

(*a*) Figure the weighted average cost for cabbage of the 1943 crop by dividing the total amount paid for not less than the first 75% of his purchases of cabbage of the 1943 crop used in manufacturing sauerkraut by the total number of tons so purchased; *Provided*, That in no event shall the 1943 raw cabbage cost exceed $22.00 per ton; and

(*b*) Divide the figure so obtained by the dozen-container yield (for the container size being priced) or other unit of sale yield per ton as was obtained by him for the same item during the period from December 1, 1941 through March 31, 1942. The figure obtained by this division is the 1943 raw cabbage cost per dozen-containers or other unit of sale being priced.

The resulting figure in (iii) shall be the processor's maximum price per dozen containers or other unit of sale being priced of sauerkraut manufactured from cabbage of the 1943 crop, f. o. b. factory, for sales to other than government procurement agencies.

(2) For sauerkraut sold in wooden barrels or wooden kegs furnished by the processor, he shall increase the maximum price figured under (1) by the amount per unit of sale of his actual increase in

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*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 1114, 1313, 2921, 3883, 4179, 4633, 4840, 6017, 10304, 10558, 10725, 10824, 10936, 11247, 11290, 11606, 13791, 13707.

cost after March 31, 1942 for the particular type and size of barrel or keg: *Provided*, That in no event shall such increase for 45 gallon or larger barrels be in excess of $1.50 per barrel. To figure the increase in barrel and keg cost after March 31, 1942, the processor shall subtract from the weighted average price paid per barrel or keg from April 1, 1942, to the date of calculation of his maximum price under this regulation, the highest price paid for the same size barrel or keg during the period from December 1, 1941 through March 31, 1942.

(3) Where the processor did not pack and sell the same grade and container of sauerkraut during the period from December 1, 1941 through March 31, 1942, the maximum price of his closest competitive seller for the same grade and container of sauerkraut manufactured from cabbage of the 1943 crop shall be the processor's maximum price.

(4) In the event that a processor cannot establish his maximum price under the foregoing provisions of this regulation he shall apply to the Office of Price Administration, Washington, D. C., for authorization of a maximum price under § 1341.563. Separate maximum prices will be authorized for sales to government procurement agencies and all other sales.

Until a maximum price is established, the applicant may deliver the item but he may not receive payment or render an invoice for it.

(5) The processor's maximum prices per dozen containers or other unit of sale of sauerkraut, f. o. b. factory, for sales to government procurement agencies, shall be 96% of the maximum prices for sales other than to government procurement agencies as established under subparagraphs (1), (2) and (3).

(6) "Sauerkraut" means all cabbage to which salt has been added and in which fermentation has started, including but not limited to "kraut", "sliced cabbage", "salted cabbage", "table salad" and "table slaw".

3. Section 1341.586 (d) (4) is added to read as follows:

(4) *Sauerkraut.*

State	Grade	Container	Multiply maximum price by—
California, Colorado, Delaware, Idaho, Illinois, Indiana, Iowa, Maryland, Michigan, Minnesota, Nebraska, New Jersey, New York, Ohio, Oregon, Pennsylvania, Utah, Washington, and Wisconsin.	All	Tin or glass.	1.025

4. Section 1341.586 (a) is amended by adding the states of Nebraska and Pennsylvania in alphabetical order as set forth below:

a. In the table under (1) (Peas), Nebraska is added to the list of states in Region II, and Pensylvania is added to the list of states in Region I.

b. In the table under (2) (Tomatoes (except Italian pear-shaped tomatoes)), Nebraska and Pennsylvania (Bucks, Montgomery, Philadelphia, Delaware, Chester, Lancaster, York, Cumberland, Adams, Franklin, Fulton, Bedford and Somerset Counties only) are added to the list of states in Region II, and Pennsylvania (those counties not included in Region II) is added to the list of states in Region I.

c. In the table under (3) (Corn), Nebraska is added to the list of states in Region II, and Pennsylvania is added to the list of states in Region IV.

d. In the table under (4) (Snap Beans), Nebraska is added to the list of states in Region IV, and Pennsylvania is added to the list of states in Region III.

5. Section 1341.586 (b) is amended by adding the states of Nebraska and Pennsylvania in alphabetical order to the list of states in the table under (1) (Spinach, mustard greens and turnip greens), and in the table under (2) (Asparagus), to the group of states beginning with Colorado and ending with Wisconsin; and by adding Pennsylvania to the list of states in the table under (3) (Red sour cherries).

6. Section 1341.586 (b) (1) (i) is added to read as follows:

(i) The adjustment provided in subparagraph (1) shall not be applicable to sales of spinach packed in the state of Maryland before September 17, 1943, to government procurement agencies for which maximum prices are established under § 1341.584 (e) (2) (i).

7. Section 1341.586 (c) is amended by adding the states of Nebraska and Pennsylvania in alphabetical order as set forth below.

a. In the table under (1) (Tomato juice), Nebraska and Pennsylvania (Bucks, Montgomery, Philadelphia, Delaware, Chester, Lancaster, York, Cumberland, Adams, Franklin, Fulton, Bedford and Somerset Counties only) are added to the group of states beginning with Illinois and ending with Wisconsin; and Pennsylvania (those counties not included in the group of states beginning with Illinois and ending with Wisconsin) is added to the area now consisting of New York alone.

b. In the table under (2) (Tomato products in § 1341.584 (h) (except tomato juice)), Nebraska and Pennsylvania are added to the group of states beginning with Delaware and ending with Wisconsin.

c. In the table under (4) (Peaches, freestone, and pears), Nebraska and Pennsylvania are added to the list of states.

8. Section 1341.586 (d) is amended by adding the states of Nebraska and Pennsylvania to each list of states in the table under (1) (Miscellaneous Vegetables in Groups I, II and III in § 1341.585 (a)), (2) (Apricots, cherries (except red sour and cocktail), cocktail cherries, figs, fruit cocktail, mixed fruits, plums and fresh prunes), and (3) (Miscellaneous berries in § 1341.587 (a) (i)).

This amendment shall become effective October 25, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 25th day of October 1943.

GEORGE J. BURKE,
Acting Administrator.

[F. R. Doc. 43-17283; Filed, October 25, 1943; 4:53 p. m.]

PART 1377—WOODEN CONTAINERS

[MPR 485]

INDUSTRIAL WIREBOUND BOXES

In the judgment of the Price Administrator the maximum prices established by this regulation are and will be generally fair and equitable and will effectuate the purposes of the Emergency Price Control Act of 1942, as amended, and Executive Orders Nos. 9250 and 9328. A statement of the considerations involved in the issuance of this regulation has been issued simultaneously herewith, and has been filed with the Division of the Federal Register.*

§ 1377.304 *Maximum prices for industrial wirebound boxes.* Under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Orders Nos. 9250 and 9328, Maximum Price Regulation No. 485 (Industrial Wirebound Boxes), which is annexed hereto and made a part hereof, is hereby issued.

AUTHORITY: § 1377.304, issued under 56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681.

MAXIMUM PRICE REGULATION NO. 485—INDUSTRIAL WIREBOUND BOXES

ARTICLE I—PROHIBITIONS AND SCOPE OF REGULATION

Sec.

1. Sales of industrial wirebound boxes at higher than maximum prices prohibited.
2. To what transactions, products and persons this regulation applies.

ARTICLE II—MAXIMUM PRICES AND TERMS OF SALE

3. Maximum prices.
4. Additions to the maximum f. o. b. mill price.
5. What the invoice must contain.
6. Prohibited practices.

ARTICLE III—MISCELLANEOUS

7. Adjustable pricing.
8. Applications for adjustment and petitions for amendment.
9. Records.
10. Licensing.
11. Enforcement.
12. Relation to other regulations.

ARTICLE I—PROHIBITIONS AND SCOPE OF REGULATION

SECTION 1. *Sales of industrial wirebound boxes at higher than maximum prices prohibited.* (a) On and after the effective date of this regulation, regard-

*Copies may be obtained from the Office of Price Administration.

less of any contract or other obligation, no person shall sell or deliver, and no person shall buy or receive any industrial wirebound box at a price higher than the maximum price fixed by this regulation; and no person shall agree, offer, or attempt to do any of these things.

(b) Prices lower than the maximum prices may, of course, be charged and paid.

SEC. 2. *To what transactions and products this regulation applies*—(a) *Transactions covered.* This regulation covers any and all sales of industrial wirebound boxes within the continental limits of the United States.

(b) *Products covered.* "Industrial box", as used in this regulation, is any wirebound box made of veneer, plywood, resawn lumber, or a combination of any of these with corrugated or solid fiber board and used for packaging or shipping any products other than fresh fruits and vegetables.

ARTICLE II—MAXIMUM PRICES AND TERMS OF SALE

SEC. 3. *Maximum prices*—(a) *General.* The maximum f. o. b. factory price for any industrial wirebound box shall be the appropriate base price, determined in accordance with paragraph (2) below, plus the following percentage additions:

	Percent
Boxes produced in Zone I	13
Boxes produced in Zone II	15

1) *Zones*—(i) *Zone I.* North of and including the states of Virginia, Kentucky and Missouri; east of and including the states of Missouri, Iowa, and Minnesota.

(ii) *Zone II.* The remainder of the United States.

(2) *Base prices*—(i) *Boxes sold during base period.* The appropriate base price for any industrial wirebound box shall be the f. o. b. factory price at which the seller made his first sale of the same box to the same customer during the base period, March 1–December 31, 1942. As herein used "sale" means actual sale or contract of sale; it does not mean delivery on a contract negotiated prior to March 1, 1942.

If a seller did not sell the same box to the same customer during the base period, the appropriate base price shall be the f. o. b. factory price at which he made his first sale of the same box to the same class of customer, as commonly understood in the trade, during the base period.

If a seller did not sell the same box to the same customer or the same class of customer during the base period, the appropriate base price shall be the f. o. b. factory price at which he made his first sale of the same box to a different class of customers during the base period, adjusted to allow the same differential between the two classes of customers which he allowed during the base period.

(ii) *Boxes not sold during the base period.* The appropriate base price for any industrial wirebound box which a seller did not sell during the base period shall be the f. o. b. factory price computed under the seller's March 1942 formula. Any person who computes a base price under this paragraph must file with the Lumber Branch, Office of Price Administration, Washington, D. C., his March 1942 pricing formula.

(iii) *All other boxes.* Any person desiring to sell any industrial wirebound box for which the base price cannot be determined under the preceding paragraphs shall submit to the Lumber Branch, Office of Price Administration, Washington, D. C., a complete description of the box to be priced, including specifications, specie, whether veneer, resawn, or purchased shook, costs based upon the manufacturer's own estimating methods and including an explanation of how each cost factor was computed. The Office of Price Administration will then compute a price or establish a pricing method for the box.

SEC. 4. *Additions to the maximum f. o. b. factory price*—(a) *Delivery.* To the maximum f. o. b. factory prices established by this regulation may be added the actual cost of delivery paid or incurred by the seller; except that if delivery is by truck owned or controlled by the seller, the addition for delivery may not exceed 80 percent of the common carrier truck charge for delivery of the same shipment.

(b) *Warehousing.* An addition may be made to the maximum f. o. b. factory price for warehousing if the boxes are actually stored in a warehouse physically separate and apart from the box factory. This addition may not exceed the charge (dollars and cents) which the manufacturer made for the same service during the base period, March 1 to December 31, 1942.

SEC. 5. *What the invoice must contain.* All invoices must contain a sufficiently complete description of the boxes and price computation to show whether or not the price is proper. The description shall contain box dimensions, end style and any other specification or extra which affects the price. The invoice must also show separately any addition to the maximum price for delivery or warehousing.

Failure to invoice properly is as much a violation of this regulation as charging a price in excess of the maximum.

SEC. 6. *Prohibited practices.* Any practice which is a device to get the effect of a higher-than-ceiling price without actually raising the dollars-and-cents price is as much a violation of this regulation as an outright over-ceiling price. This applies to changes in discount practices, devices making use of commissions, services, transportation arrangements, premiums, special privileges, tying agreements, trade understandings and the like.

ARTICLE III—MISCELLANEOUS

SEC. 7. *Adjustable pricing.* Any person may agree to sell at a price which can be increased up to the maximum price in effect at the time of delivery; but no person may, unless authorized by the Office of Price Administration, deliver or agree to deliver at prices to be adjusted upward in accordance with action taken by the Office of Price Administration after delivery. Such authorization may be given when a request for a change in the applicable maximum price is pending, but only if the authorization is necessary to promote distribution or production and if it will not interfere with the purposes of the Emergency Price Control Act of 1942, as amended. The authorization may be given by the Administrator or by any official of the Office of Price Administration to whom the authority to grant such authorization has been delegated. The authorization will be given by order, except that it may be given by letter or telegram when the contemplated revision will be the granting of an individual application for adjustment.

SEC. 8. *Petitions for amendment or applications for adjustment*—(a) *Government contracts or subcontracts.* Any person who has entered into or proposes to enter into a contract with the United States or any agency thereof, or with the government of any country whose defense the President deems vital to the defense of the United States under the terms of the Act of March 11, 1941, entitled, "An Act to promote the defense of the United States", or any agency of any such government, or a subcontract under any such contract, who believes that the maximum price impedes or threatens to impede production of an industrial wirebound box which is essential to the war program and which is or will be the subject of such contract or subcontract, may file an application for adjustment of the maximum prices established by this regulation in accordance with Procedural Regulation No. 6,[1] issued by the Office of Price Administration.

(b) *General amendments.* Any person seeking an amendment of any provision of this regulation may file a petition for amendment in accordance with the provisions of Revised Procedural Regulation No. 1,[2] issued by the Office of Price Administration.

(c) *Adjustment of abnormally low maximum prices.* The Price Administrator may by order adjust the maximum prices established under this regulation for any seller of industrial wirebound boxes who shows:

(1) That prior to the Emergency Price Control Act his price bore a definite relation to the prices of competing sellers of wirebound boxes and is now abnormally low in relation to those prices; and

(2) That this abnormality subjects him to substantial hardship in the sense of having contributed to reducing his over-all profits from all operations to an amount less than the profits which he realized during 1941, or 1942, whichever is lower, adjusted for subsequent changes in investment.

The amount of adjustment under this paragraph will be the lowest of the following:

(a) The amount needed to remove the abnormality.

[1] 7 F.R. 5087, 5664; 8 F.R. 6174, 6175, 12024.
[2] 7 F.R. 8961; 8 F.R. 3313, 3533.

(b) The amount needed to restore the applicant's profit on his wirebound box operations to the amount realized on these operations during 1941, adjusted for subsequent changes in investment.

(c) The amount needed to restore the applicant's profit on his wirebound box operations to the amount realized on these operations during 1942, adjusted for subsequent changes in investment.

Applications for adjustment under this paragraph shall be filed in accordance with Revised Procedural Regulation No. 1, issued by the Office of Price Administration. No application filed after December 31, 1943, will be granted.

SEC. 9. *Records.* All persons making sales covered by this regulation must keep records which will show a complete description of the products sold, the name and address of the buyer, the date of the transaction, and the price. Buyers must keep similar records, including the name and address of the seller. These records must be kept for two years for inspection by the Office of Price Administration.

SEC. 10. *Licensing.* The provisions of Licensing Order No. 1 [3] licensing all persons who make sales under price control, are applicable to all sellers subject to this regulation. A seller's license may be suspended for violations of the license or of one or more maximum price regulations. A person whose license is suspended may not, during the period of suspension, make any sale for which his license has been suspended.

SEC. 11. *Enforcement.* Persons violating any provision of this regulation are subject to the criminal penalties, civil enforcement actions, and suits for treble damages provided by the Emergency Price Control Act of 1942, as amended.

SEC. 12. *Relation to other regulations*—(a) *General Maximum Price Regulation.*[4] Any sale or delivery covered by this Maximum Price Regulation is not subject to the General Maximum Price Regulation.

(b) *Second Revised Maximum Export Price Regulation.*[5] The maximum prices for export sales of industrial wirebound boxes are governed by the Second Revised Maximum Export Price Regulation.

The effective date of this regulation shall be June 3, 1943.

NOTE: All reporting and record keeping requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued this 25th day of October 1943.

GEORGE J. BURKE,
Acting Administrator.

[F. R. Doc. 43-17287; Filed, October 25, 1943; 4:51 p. m.]

[3] 8 F.R. 13240.

[4] 8 F.R. 3096, 3849, 4347, 4486, 4724, 4848, 4978, 6047, 6962.

[5] 8 F.R. 4132, 5987, 7662, 9998.

PART 1384—HARDWOOD LUMBER PRODUCTS

[Rev. MPR 338,[1] Amdt. 1]

AIRCRAFT AND NO. 1 SHEET STOCK VENEER

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Revised Maximum Price Regulation No. 338 is amended in the following respects:

1. In section 12 (a) (2) the paragraph headed "Class A" is amended to read as follows:

Class A. Stock cut to exact lengths up to and including 56" as specified by the purchaser. Widths may be random with minimum widths of 5¼" for birch and maple, and 6" for gum, tupelo, poplar, and basswood, and a maximum width of 38"

2. In section 12 (a) (2) the paragraphs headed "Class AA" through "Class FF" are amended to read as follows:

Class AA. Same specifications as Class "A" except that widths shall be 10" or wider as specified by the purchaser, and may include equal width part pieces. These part pieces shall measure in total width 1" more for each joint than the specified dimension width. Or, widths may be 5" 6½", 9½" 11" 13½" 18" 22" and 26" as developed from the log, if so specified by the purchaser.

Class BB. Same specifications as Class "B" except that widths shall be 10" or wider as specified by the purchaser, and may include equal width part pieces. These part pieces shall measure in total width 1" more for each joint than the specified dimension width. Or, widths may be 5" 6½" 9½" 11" 13½" 18" 22" and 26" as developed from the log, if so specified by the purchaser.

Class CC. Same specifications as Class "C" except that widths shall be 10" or wider as specified by the purchaser and may include equal width part pieces. These part pieces shall measure in total width 1" more for each joint than the specified dimension width. Or, width may be 5" 6½" 9½" 11" 13½" 18" 22" and 26' as developed from the log, if so specified by the purchaser.

Class DD. Same specifications as Class "D" except that widths shall be 10" or wider as specified by the purchaser, and may include equal width part pieces. These part pieces shall measure in total width 1" more for each joint than the specified dimension width. Or, widths may be 5" 6½" 9½" 11" 13½" 18" 22" and 26" as developed from the log, if so specified by the purchaser.

Class EE. Same specifications as Class "E" except that widths shall be 10" or wider as specified by the purchaser, and may include equal width part pieces. These part pieces shall measure in total width 1" more for each joint than the specified dimension width. Or, widths may be 5" 6½" 9½" 11" 13½" 18" 22" and 26" as developed from the log, if so specified by the purchaser.

Class FF Same specifications as Class "F" except that widths shall be 10" or wider as specified by the purchaser and may include equal width part pieces. These part pieces shall measure in total width 1" more for each joint than the specified dimension width. Or, widths may be 5" 6½" 9½" 11" 13½" 18" 22" and 26" as developed from the log, if so specified by the purchaser.

3. In section 12 (b) the following note is added at the foot of Tables 9 and 10.

NOTE: The maximum prices for Grade B aircraft or airframe veneer per British Standard Specification 5V3 or 6V3 shall be 10% less than the corresponding prices for the same thicknesses and classes of Grade A aircraft or airframe veneer per British Standard Specification 5V3 or 6V3 as shown in Table 9 and Table 10.

This amendment shall become effective October 30, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong., E.O. 9250, 7 F.R. 7871, E.O. 9328, F.R. 4681)

Issued this 25th day of October 1943.

GEORGE J. BURKE,
Acting Administrator

[F. R. Doc. 43-17288; Filed, October 25, 1943; 4:52 p. m.]

*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 11672.

PART 1404—RATIONING OF FOOTWEAR

[RO 17,[1] Amdt. 41]

SHOES

A rationale accompanying this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Ration Order 17 is amended in the following respects:

1. Section 1.4b is amended by deleting paragraphs (d) and (e) thereof, and by amending paragraph (c) to read as follows:

(c) The Board, or the Customs Officer, may issue to the applicant, for each period, one special shoe stamp for each eligible person for whom the application is made, and shall insert on each stamp issued the symbol "M" and the date of the commencement of the period for which the stamp is issued. Such stamps are valid for use by the consumer until the next War Ration Shoe Stamp becomes valid.

This amendment shall become effective October 30, 1943.

NOTE: These reporting provisions have been approved by the Bureau of Budget in accordance with the Federal Reports Act of 1942.

(Pub. Law 671, 76th Cong. as amended by Pub. Laws 89, 421 and 507, 77th Cong., WPB Dir. 1, 7 F.R. 562, Supp. Dir. 1-T, 8 F.R. 1727; E.O. 9125, 7 F.R. 2719)

Issued this 25th day of October 1943.

GEORGE J. BURKE,
Acting Administrator

[F R. Doc. 43-17290; Filed, October 25, 1943; 4:52 p. m.]

[1] 8 F.R. 1749, 2040, 2487, 2943, 3315, 3371, 3851, 4129, 3943, 4716, 5589, 5678, 5679, 5867, 5756, 6046, 6687, 7193, 7261, 8060, 8064, 8357, 8601, 9062, 9422, 9567, 9884, 10269, 11445, 11516, 12026, 12137, 12180, 12547, 12548, 12515, 13128.

PART 1420—BREWERY, DISTILLERY AND WINERY PRODUCTS

[MPR 193,[1] Amdt. 8]

DOMESTIC DISTILLED SPIRITS

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and filed with the Division of the Federal Register.*

Section 1420.13 (a) (1) (iv) of Maximum Price Regulation No. 193 is amended to read as follows:

(iv) Fifty cents per proof gallon and the amount of import duty applicable to the quantity of

(*a*) Imported neutral spirts used as a substitute for the same quantity of domestic neutral spirits thereby displaced in the item;

(*b*) Neutral spirits derived from domestic processing of imported distilled spirits, used as a substitute for the same quantity of domestic neutral spirits thereby displaced in the item; or

(*c*) Imported distilled spirits of a particular classification and subclassification of identity under applicable United States labeling laws and regulations used as a substitute for the same quantity of domestic distilled spirits of the same such classification and subclassification thereby displaced in the item.

NOTE: Where there is a loss in domestic processing of imported distilled spirits to produce neutral spirits, the additions provided can be computed only with respect to the quantity produced from such processing. For example, where three gallons of imported distilled spirits are processed and 2.8 gallons of neutral spirits are derived thereby, the additions provided must be computed on only 2.8 gallons used in accordance with (iv) (b).

The additions provided under (iv) (c) are applicable only when an ingredient of an item of domestic distilled spirits is displaced by the same ingredient except that such displacing ingredient is imported. For example, where a particular quantity of domestic brandy in an item is displaced by a like quantity of imported brandy, the additions provided are applicable. Where, however, the domestic brandy is displaced by imported neutral spirits, neutral spirits derived from processing imported distilled spirits, or other imported distilled spirits, the additions do not apply.

This amendment shall become effective October 30, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 25th day of October 1943.

GEORGE J. BURKE,
Acting Administrator.

[F. R. Doc. 43-17292; Filed, October 25, 1943; 4:52 p. m.]

PART 1439—UNPROCESSED AGRICULTURAL COMMODITIES

[Rev. MPR 346, Amdt. 5]

CORN

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Section 11 (b) (3) is amended to read as follows:

(3) The maximum price for the sale of white corn in all cases for which maximum prices are established for the sale of yellow corn under sections 8, 9 and 10 hereof shall be the same as said maximum prices for a like sale of a corresponding class and grade of yellow corn except:

(i) Where in those sections the maximum price of yellow corn is calculated by reference to a maximum price at a terminal basing point, the maximum prices at the terminal basing points as above set forth in paragraph (b) (1) of this section shall be used in determining or calculating the maximum prices for sales of white corn; and in Areas I or II, b, also exclusive of the 5 cents deduction.

(ii) The maximum price for No. 2 white corn in Areas 4 or 5 under section 10 shall be the maximum price there specified for No. 2 yellow corn plus 25 cents per 100 pounds.

(iii) The maximum price for No. 2 white corn in Area 10 under section 10 shall be the maximum price there specified for No. 2 yellow corn plus 14 cents per bushel.

This amendment shall become effective October 30, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 25th day of October 1943.

GEORGE J. BURKE,
Acting Administrator.

[F. R. Doc. 43-17293; Filed, October 25, 1943; 4:51 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[Rev. MPR 370,[1] Amdt. 1]

LINSEED OIL MEAL, CAKE, PEA SIZED MEAL AND PELLETS

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Item 9 of section 4 (a) is amended to read as follows:

Location of crushing plants	Guaranteed minimum percentage of protein	Maximum prices, in carload lots or pool car lots		Maximum prices, in less than carload lots, meal or cake or pea-sized meal or pellets
		Meal or cake	Pea-sized meal or pellets	
Los Angeles, California	33% up to 34%	$42.00	$43.50	Do.
Do	34% up to 34½%	44.00	45.50	Do.
Do	34½% or over	45.00	47.50	Do.

This amendment shall become effective October 30, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 25th day of October 1943.

GEORGE J. BURKE,
Acting Administrator.

[F. R. Doc. 43-17284; Filed, October 25, 1943; 4:50 p. m.]

Chapter XIII—Petroleum Administration for War

[PAO 10, Revocation]

PART 1535—PETROLEUM PROCESSING AND REFINING

USE OF FATTY ACIDS OR FATTY OILS

Section 1535.1 *Petroleum Administrative Order No. 10*, issued March 27, 1943 is hereby revoked, effective immediately.

This revocation shall not impair the validity of any act or thing done under or by authority of Petroleum Administrative Order No. 10 and shall not affect in any way any liability or penalty incurred under said order. All pending matters and proceedings under said order shall not be terminated hereby, but may be carried to completion by Petroleum Administration for War.

(E.O. 9276, 7 F.R. 10091; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 27th day of October 1943.

RALPH K. DAVIES,
Deputy Petroleum Administrator for War.

[F. R. Doc. 43-17296; Filed, October 28, 1943; 10:42 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 25—MEDICAL

ORTHOPEDIC AND PROSTHETIC APPLIANCES

Section 25.6115 is amended to read as follows:

§ 25.6115 *Conditions governing the furnishing of.* (a) Orthopedic or prosthetic appliances furnished entitled beneficiaries of the Veterans' Administration, will be of approved types. Repairs or replacements thereof may be made, as provided, when necessitated, in medical judgment, because of wear, loss not due to negligence or design of the beneficiaries and for other sufficient reasons.

*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 6006, 8940, 8947, 8948, 10068; 8 F.R. 1632, 2716, 7492, 8540.

[1] 8 F.R. 10733.

(b) Dental prostheses are not comprehended as orthopedic and prosthetic appliances.

(c) Artificial limbs and other prosthetic or orthopedic appliances of a permanent type may be purchased, made or repaired for, and special clothing made necessary by wear of such appliances may be furnished to:

(1) Out-patients entitled to and in need of such appliances, etc., (i) for a disease or injury which is service-connected; or (ii) for an associated condition, not attributed to military or naval service, but held to be aggravating the disability from a service-connected disease or injury (adjunct treatment).

(2) Hospitalized patients, when medically held needed for (i) a service-connected conditions, (ii) an associated disease or injury held to be aggravating disability from a service-connected disorder (adjunct treatment), (iii) a disease or injury, not attributed to military or naval services, for which hospitalization had been authorized, or (iv) for a condition, also not service-connected, that is associated with and held to be aggravating disability from the disease or injury for which the patient had been admitted to hospital (auxiliary treatment). Repair or replacement of a previously supplied artificial limb will not be considered invariably necessitated because of surgical treatment of a stump in itself, e. g., for ulcer of neuroma. But when, because of reamputation or other treatment, or a disease process resulting in atrophy, sufficient change in the contour of the stump occurs, alteration or replacement of a socket or other part of the artificial limb or, if necessary, the furnishing of a new limb, will be authorizable. Like authority may be exercised when, upon hospitalization of a beneficiary for treatment of a stump, it is medically determined that the artificial limb he had been wearing is defective or improperly fitted, and is creating the necessity for treatment of the stump. Alteration of the appliance or, if clearly necessary, the furnishing of a new artificial limb, may then be held a proper part of the patient's treatment.

(3) Domiciled members, when medically held needed for (i) a service-connected condition, (ii) a disease or injury not service-connected, but held to be aggravating disability from a service-connected condition (adjunct treatment), (iii) appliances, except artificial limbs and hearing devices, not considered for furnishing under paragraph (a) or (b), may nevertheless be procured or repaired for domiciled members, when medically determined necessary as an incident of domiciliary care. In individual cases when, in medical judgment, an artificial limb or hearing device (or repair to either) is held necessary as an incident of domiciliary care, and is not furnishable under (a) or (b) hereof, a recommendation for such service, with a sufficient explanation of the circumstances, may be submitted to the medical director, whose approval or disapproval will decide whether such article is to be supplied.

(4) Repairs to artificial limbs or hearing devices, when not in excess of $25, will not require prior approval of the medical director. (48 Stat. 9; 38 U.S.C. 706) (October 25, 1943)

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 43-17274; Filed, October 25, 1943; 4:03 p. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter II—Office of Defense Transportation

[General Order ODT 3, Revised, Amdt. 4]

PART 501—CONSERVATION OF MOTOR EQUIPMENT

COMMON CARRIERS OF PROPERTY

Pursuant to Executive Orders 8989 and 9156, § 501.6 of General Order ODT 3, Revised, as amended (7 F.R. 5445, 6689), is hereby amended by adding a new paragraph designated (d), as follows:

§ 501.6 *Loading and operating requirements.* * * *

(d) On and after October 25, 1943, no person, without prior approval of the Office of Defense Transportation, shall extend or inaugurate over-the-road service as a common carrier over a route or within a territory not being served by such person as a common carrier on that date. No approval will be granted unless the extension or inauguration of service is shown to be necessary to the war effort or to the maintenance of essential civilian economy. Any application for such approval shall be in writing and shall contain the name, address, and principal place of business of applicant, a specific description of the route or routes over which, or the territory within which, an extension or inauguration of service is proposed, and a full statement of the facts upon which the application is based. Such application shall be filed with the District Manager, Division of Motor Transport, Office of Defense Transportation, of the district in which the applicant's operating headquarters are located.

This amendment shall become effective October 25, 1943.

(E.O. 8989, 9156; 6 F.R. 6725, 7 F.R. 3349)

Issued at Washington, D. C., this 25th day of October 1943.

JOSEPH B. EASTMAN,
Director,
Office of Defense Transportation.

[F. R. Doc. 43-17271; Filed, October 25, 1943; 1:35 p. m.]

[General Order ODT 6A, Amdt. 1]

PART 501—CONSERVATION OF MOTOR EQUIPMENT

MOTOR CARRIERS OF PROPERTY

Pursuant to Executive Orders 8989 and 9156, § 501.23 of General Order ODT 6A (8 F.R. 8757) is hereby amended by adding a new paragraph designated (c), as

§ 501.23 *Operating requirements.* * * *

(c) On and after October 25, 1943, no person, without prior approval of the Office of Defense Transportation, shall extend or inaugurate collection and delivery service or local cartage service as a local carrier within a territory not being served by such person as a local carrier on that date. No approval will be granted unless the extension or inauguration of service is shown to be necessary to the war effort or to the maintenance of essential civilian economy. Any application for such approval shall be in writing and shall contain the name, address, and principal place of business of applicant, a specific description of the territory within which an extension or inauguration of service is proposed, and a full statement of the facts upon which the application is based. Such application shall be filed with the District Manager, Division of Motor Transport, Office of Defense Transportation, of the district in which the applicant's operating headquarters are located.

This amendment shall become effective October 25, 1943.

(E.O. 8989, 9156; 6 F.R. 6725, 7 F.R. 3349)

Issued at Washington, D. C., this 25th day of October 1943.

JOSEPH B. EASTMAN,
Director,
Office of Defense Transportation.

[F. R. Doc. 43-17272; Filed, October 25, 1943; 1:35 p. m.]

[General Order ODT 17, Amdt. 6]

PART 501—CONSERVATION OF MOTOR EQUIPMENT

MOTOR CARRIERS OF PROPERTY

Pursuant to Executive Orders 8989 and 9156, § 501.69 of General Order ODT 17, as amended (7 F.R. 5678, 8 F.R. 8278), is hereby amended by adding the following paragraphs designated (d) and (e), respectively:

§ 501.69 *Loading and operating requirements.* * * *

(d) On and after October 25, 1943, no person, without prior approval of the Office of Defense Transportation, shall extend or inaugurate over-the-road service or local delivery service as a motor carrier over a route or within a territory not being served by such person as a motor carrier on that date. No approval will be granted unless the extension or inauguration of service is shown to be necessary to the war effort or to the maintenance of essential civilian economy. Any application for such approval shall be in writing and shall contain the name, address, and principal place of business of applicant, a specific description of the route or routes over which, or the territory within which, an extension or inauguration of service is proposed, and a full statement of the facts upon which the application is based. Such application shall be filed with the District Manager, Division of Motor Transport, Office of Defense Transportation, of the district in which the applicant's operating headquarters are located.

(e) Approval of the Office of Defense Transportation under the terms of paragraph (d) of this § 501.69 shall not be required in respect of changes made by a motor carrier in routes established within a territory, (1) as a result of the consolidation of existing routes, or (2) by reason of the substitution of a new route or routes in lieu of an existing route or routes: *Provided*, That any such change does not result in an enlargement of the territory served by the motor carrier or increase the total mileage of the routes previously operated.

This amendment shall become effective October 25, 1943.

(E.O. 8989, 9156; 6 F.R. 6725, 7 F.R. 3349)

Issued at Washington, D. C., this 25th day of October 1943.

JOSEPH B. EASTMAN,
Director,
Office of Defense Transportation.

[F. R. Doc. 43-17273; Filed, October 25, 1943; 1:35 p. m.]

[General Order ODT 27, Amdt. 1]

PART 501—CONSERVATION OF MOTOR EQUIPMENT

INTERCITY COMMON CARRIERS OF PASSENGERS BY MOTOR VEHICLES IN PUERTO RICO

Pursuant to Executive Orders 8989, 9156, and 9214, paragraph (b) of § 501.160 and §§ 501.163 and 501.164 of General Order ODT 27 (7 F.R. 11016) are hereby amended to read as follows:

§ 501.160 *Definitions.* * * *

(b) "Intercity service" means all transportation of passengers except operations performed wholly within any urban zone and an area extending 8 air kilometers from the boundaries thereof or between contiguous urban zones.

* * * * * *

§ 501.163 *Elimination of waste.* On and after the effective date of this order, every common carrier in the operation of intercity passenger vehicles shall:

(a) Eliminate waste in operations and duplication of parallel services, and curtail schedules and services to the extent necessary to carry out the purposes of this order;

(b) Conserve and properly maintain tires, vehicle equipment and other facilities necessary in conducting the business of such common carrier;

(c) Operate over the most direct route between points authorized to be served unless a different route is specified in a special permit or certificate of necessity and convenience issued to the carrier by the Public Service Commission of Puerto Rico.

§ 501.164 *Operating requirements.* On and after the effective date of this order, no common carrier in the operation of intercity passenger vehicles shall:

(a) Operate a limited schedule in intercity service;

(b) Operate a round trip schedule in intercity service where it is reasonable to believe, in the light of experience and prospective travel, that during any calendar month the number of passenger kilometers on such schedule will be less than 40 percent of the number of seat kilometers;

(c) Extend or inaugurate intercity service, without the prior approval of the Office of Defense Transportation, or unless necessary to comply with the provisions of paragraph (c) of § 501.163 of this order, over a route not being served by the carrier on January 15, 1943;

(d) Operate intercity service for the primary purpose of supplying transportation to or from a golf course, athletic field, race track, theatre, dancing pavilion or other place conducted primarily for purposes of amusement or entertainment;

(e) Operate any intercity passenger vehicle without distinctly marking such vehicle to indicate that it is engaged in intercity service;

(f) Operate any intercity passenger vehicle for any purpose, including social or recreational purposes, personal to the driver or operator.

This amendment shall become effective on October 26, 1943.

(E.O. 8989, 9156, 9214; 6 F.R. 6725, 7 F.R. 3349, 6097)

Issued at Washington, D. C., this 26th day of October 1943.

JOSEPH B. EASTMAN,
Director,
Office of Defense Transportation.

[F. R. Doc. 43-17305; Filed, October 26, 1943; 11:07 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

General Land Office.

ARIZONA

STOCK DRIVEWAY WITHDRAWAL

OCTOBER 18, 1943.

By virtue of the authority contained in section 7 of the act of June 28, 1934, 48 Stat. 1272, as amended by the act of June 26, 1936, 49 Stat. 1976 (U.S.C. title 43, sec. 315f), and in section 10 of the act of December 29, 1916, 39 Stat. 865, as amended by the act of January 29, 1929, 45 Stat. 1144 (U.S.C. title 43, sec. 300), it is ordered as follows:

The following-described public land in Arizona is hereby classified as necessary and suitable for stock-driveway purposes and, excepting any mineral deposits therein, is withdrawn from all disposal under the public-land laws and reserved, subject to valid existing rights, for the use of the general public, the reservation to be known as Stock Driveway Withdrawal No. 269, Arizona No. 9:

GILA AND SALT RIVER MERIDIAN

T. 3 S., R. 15 E., sec. 11, NW¼SW¼.
The area described contains 40 acres.

Any mineral deposits in the land shall be subject to location and entry only in the manner prescribed by the Secretary of the Interior in accordance with the provisions of the aforesaid act of January 29, 1929, and existing regulations.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 43-17234; Filed, October 26, 1943; 9:52 a. m.]

OFFICE OF DEFENSE TRANSPORTATION.

(Supp. Order ODT 3, Rev. 87)

HEALZER CARTAGE COMPANY AND RILEY TRUCK LINE

COORDINATED OPERATIONS BETWEEN POINTS IN KANS.

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by J. W. Healzer, doing business as Healzer Cartage Company, Hutchinson, Kansas, and Jesse L. Riley, doing business as Riley Truck Line, Pratt, Kansas, to facilitate compliance with the requirements and purposes of General Order ODT 3, Revised, as amended,[1] a copy of which plan is attached hereto as Appendix 1,[2] and

It appearing that the proposed coordination of operations is necessary in order to assure maximum utilization of the facilities, services, and equipment, and to conserve and providently utilize vital equipment, materials, and supplies, of the carriers, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered*, That:

1. The plan for joint action above referred to is hereby approved and the carriers are directed to put the plan in operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the carriers forthwith shall file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order, and likewise shall file, and publish in accordance with law, and continue in effect until further order, tariffs or supplements to filed tariffs, setting forth any changes in rates, charges, operations, rules, regulations, and practices of the carrier which may be necessary to accord with the provisions of this order and of such plan; and forthwith shall apply to such regulatory body or bodies for special permission for such tariffs or supplements to become effective on the shortest notice lawfully permissible, but not prior to the effective date of this order.

[1] 7 F.R. 5445, 6639, 7634; 8 F.R. 4660.
[2] Filed as part of the original document.

3. Shipments diverted in execution of the plan shall be transported pursuant to the lawfully applicable rates, charges, rules, and regulations of the diverting carrier.

4. The provisions of this order shall not be so construed or applied as to require any carrier subject hereto to perform any service beyond its transportation capacity, or to authorize or require any act or omission which is in violation of any law or regulation, or to permit any carrier to alter its legal liability to any shipper. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing interstate or intrastate operating authority of any carrier subject hereto, such carrier forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the carriers' possessing or obtaining the requisite operating authority.

5. All records of the carriers pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

6. The plan for joint action hereby approved and all contractual arrangements made by the carriers to effectuate the plan shall not continue in operation beyond the effective period of this order.

7. Communications concerning this order should refer to "Supplementary Order ODT 3, Revised–87," and, unless otherwise directed, should be addressed to the Division of Motor Transport, Office of Defense Transportation, Washington, D. C.

This order shall become effective October 30, 1943, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 26th day of October 1943.

C. D. YOUNG,
Deputy Director,
Office of Defense Transportation.

[F. R. Doc. 43–17298, Filed, October 26, 1943; 11:06 a. m.]

(Supp. Order ODT 3, Rev. 88)

LEBANON TRANSFER COMPANY, INC. AND MCKINLEY-NANCE TRANSFER COMPANY, INC.

COORDINATED OPERATIONS BETWEEN LOUISVILLE AND LEBANON, KY.

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by Lebanon Transfer Company, Inc., Lebanon, Kentucky, and McKinley-Nance Transfer Company, Inc., Campbellsville, Kentucky, to facilitate compliance with the requirements, and purposes of General Order ODT 3, Revised, as amended,[1] a copy of which plan is attached hereto as Appendix 1,[2] and

It appearing that the proposed coordination of operations is necessary in order to assure maximum utilization of the facilities, services, and equipment, and to conserve and providently utilize vital equipment, materials, and supplies, of the carriers, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered,* That:

1. The plan for joint action above referred to is hereby approved and the carriers are directed to put the plan in operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the carriers forthwith shall file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order, and likewise shall file, and publish in accordance with law, and continue in effect until further order, tariffs or supplements to filed tariffs, setting forth any changes in rates, charges, operations, rules, regulations, and practices of the carrier which may be necessary to accord with the provisions of this order and of such plan; and forthwith shall apply to such regulatory body or bodies for special permission for such tariffs or supplements to become effective on the shortest notice lawfully permissible, but not prior to the effective date of this order.

3. Shipments diverted in execution of the plan shall be transported pursuant to the lawfully applicable rates, charges, rules, and regulations of the diverting carrier.

4. The provisions of this order shall not be so construed or applied as to require any carrier subject hereto to perform any service beyond its transportation capacity, or to authorize or require any act or omission which is in violation of any law or regulation, or to permit any carrier to alter its legal liability to any shipper. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing interstate or intrastate operating authority of any carrier subject hereto, such carrier forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the carriers' possessing or obtaining the requisite operating authority.

[1] 7 F.R. 5445, 6689, 7694; 8 F.R. 4660.
[2] Filed as part of the original document.

5. All records of the carriers pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

6. The plan for joint action hereby approved and all contractual arrangements made by the carriers to effectuate the plan shall not continue in operation beyond the effective period of this order.

7. Communications concerning this order should refer to "Supplementary Order ODT 3, Revised–88," and, unless otherwise directed, should be addressed to the Division of Motor Transport, Office of Defense Transportation, Washington, D. C.

This order shall become effective October 30, 1943, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 26th day of October 1943.

C. D. YOUNG,
Deputy Director,
Office of Defense Transportation.

[F. R. Doc. 43–17299; Filed, October 26, 1943; 11:06 a. m.]

[Supp. Order ODT 3, Rev. 89]

GRAHAM SHIP-BY-TRUCK CO., ET AL.

COORDINATED OPERATIONS BETWEEN ST. JOSEPH, MO., ATCHISON AND TOPEKA, KANS.

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by Ship-By-Truck Company, doing business as Graham Ship-By-Truck Co., Kansas City, Missouri; Harold R. Leonard and Doyle B. Leonard, doing business as Leonard Bros. Transport Co., Topeka, Kansas; E. W. Stimble, Jr., doing business as The Service Line, St. Joseph, Missouri; and Watson Bros. Transportation Co., Inc., Kansas City, Missouri, to facilitate compliance with the requirements and purposes of General Order ODT 3, Revised, as amended,[1] a copy of which plan is attached hereto as Appendix 1,[2] and

It appearing that the proposed coordination of operations is necessary in order to assure maximum utilization of the facilities, services, and equipment, and to conserve and providently utilize vital equipment, materials, and supplies, of the carriers, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered,* That:

1. The plan for joint action above referred to is hereby approved and the carriers are directed to put the plan in operation forthwith, subject to the fol-

lowing provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the carriers forthwith shall file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order, and likewise shall file, and publish in accordance with law, and continue in effect until further order, tariffs or supplements to filed tariffs, setting forth any changes in rates, charges, operations, rules, regulations, and practices of the carrier which may be necessary to accord with the provisions of this order and of such plan; and forthwith shall apply to such regulatory body or bodies for special permission for such tariffs or supplements to become effective on the shortest notice lawfully permissible, but not prior to the effective date of this order.

3. Shipments diverted in execution of the plan shall be transported pursuant to the lawfully applicable rates, charges, rules, and regulations of the diverting carrier.

4. The provisions of this order shall not be so construed or applied as to require any carrier subject hereto to perform any service beyond its transportation capacity, or to authorize or require any act or omission which is in violation of any law or regulation, or to permit any carrier to alter its legal liability to any shipper. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing interstate or intrastate operating authority of any carrier subject hereto, such carrier forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the carriers' possessing or obtaining the requisite operating authority.

5. All records of the carriers pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

6. The plan for joint action hereby approved and all contractual arrangements made by the carriers to effectuate the plan shall not continue in operation beyond the effective period of this order.

7. Communications concerning this order should refer to "Supplementary Order ODT 3, Revised—89," and, unless otherwise directed, should be addressed to the Division of Motor Transport, Office of Defense Transportation, Washington, D. C.

This order shall become effective October 30, 1943, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 26th day of October 1943.

C. D. YOUNG,
Deputy Director,
Office of Defense Transportation.

[F. R. Doc. 43-17300; Filed, October 26, 1943; 11:06 a. m.]

[Supp. Order ODT 3, Rev. 90]

20TH CENTURY DELIVERY SERVICE, INC., ET AL.

COORDINATED OPERATIONS BETWEEN POINTS IN CALIFORNIA

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by 20th Century Delivery Service, Inc., Goodman Delivery Service, Babe Talsky, doing business as Reliable Delivery Service, John M. Webster, doing business as Webster Delivery Service, and United Parcel Service of Los Angeles, Inc., all of Los Angeles, California, to facilitate compliance with the requirements and purposes of General Order ODT 3, Revised, as amended,[1] a copy of which plan is attached hereto as Appendix 1,[2] and

It appearing that the proposed coordination of operations is necessary in order to assure maximum utilization of the facilities, services, and equipment, and to conserve and providently utilize vital equipment, materials, and supplies, of the carriers, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered*, That:

1. The plan for joint action above referred to is hereby approved and the carriers are directed to put the plan in operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the carriers forthwith shall file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order, and likewise shall file, and publish in accordance with law, and continue in effect until further order, tariffs or supplements to filed tariffs, setting forth any changes in rates, charges, operations, rules, regulations, and practices of the carrier which may be necessary to accord with the provisions of this order and of such plan; and forthwith shall apply to such regulatory body or bodies for special permission for such tariffs or supplements to become effective on the shortest notice lawfully permissible, but not prior to the effective date of this order.

3. Shipments diverted in execution of the plan shall be transported pursuant to the lawfully applicable rates, charges, rules, and regulations of the diverting carrier.

4. The provisions of this order shall not be so construed or applied as to require any carrier subject hereto to perform any service beyond its transportation capacity, or to authorize or require any act or omission which is in violation of any law or regulation, or to permit any carrier to alter its legal liability to any shipper. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing interstate or intrastate operating authority of any carrier subject hereto, such carrier forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the carriers' possessing or obtaining the requisite operating authority.

5. All records of the carriers pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

6. The plan for joint action hereby approved and all contractual arrangements made by the carriers to effectuate the plan shall not continue in operation beyond the effective period of this order.

7. Communications concerning this order should refer to "Supplementary Order ODT 3, Revised—90," and, unless otherwise directed, should be addressed to the Division of Motor Transport, Office of Defense Transportation, Washington, D. C.

This order shall become effective October 30, 1943, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 26th day of October 1943.

C. D. YOUNG,
Deputy Director,
Office of Defense Transportation.

[F. R. Doc. 43-17301; Filed, October 26, 1943; 11:07 a. m.]

(Supp. Order ODT 3, Rev. 91)

CROWE & CO., INC., ET AL.

COORDINATED OPERATIONS BETWEEN POINTS IN CONNECTICUT

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by Crowe & Co., Incorporated, a corporation, of Waterbury, Connecticut, The Laube Interstate Corporation, a corporation, of Waterbury, Connecticut, Lombard Brothers, Incorporated, a corporation, of Waterbury, Connecticut, Shippers Express, In-

[1] 7 F.R. 5445, 6089, 7694; 8 F.R. 4690.

[2] Filed as part of the original document.

corporated, a corporation, of Waterbury, Connecticut, and Wooster Express, Incorporated, a corporation, of Hartford, Connecticut, to facilitate compliance with the requirements and purposes of General Order ODT 3, Revised, as amended,[1] a copy of which plan is attached hereto as Appendix 1,[2] and

It appearing that the proposed coordination of operations is necessary in order to assure maximum utilization of the facilities, services, and equipment, and to conserve and providently utilize vital equipment, materials, and supplies, of the carriers, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered,* That:

1. The plan for joint action above referred to is hereby approved and the carriers are directed to put the plan in operation forthwith; subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the carriers forthwith shall file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order, and likewise shall file, and publish in accordance with law, and continue in effect until further order, tariffs or supplements to filed tariffs, setting forth any changes in rates, charges, operations, rules, regulations, and practices of the carrier which may be necessary to accord with the provisions of this order and of such plan; and forthwith shall apply to such regulatory body or bodies for special permission for such tariffs or supplements to become effective on the shortest notice lawfully permissible, but not prior to the effective date of this order.

3. Shipments diverted in execution of the plan shall be transported pursuant to the lawfully applicable rates, charges, rules, and regulations of the diverting carrier.

4. The provisions of this order shall not be so construed or applied as to require diversion of any shipment to a carrier not authorized to transport such shipment, or to require any carrier to perform any service beyond its operating authority or transportation capacity, or to authorize or require any act or omission which is in violation of any law or regulation, or to permit any carrier to alter its legal liability to any shipper.

5. All records of the carriers pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

6. The plan for joint action hereby approved and all contractual arrangements made by the carriers to effectuate the plan shall not continue in operation beyond the effective period of this order.

7. Any common carrier by motor vehicle, duly authorized or permitted to engage in the transportation of property between the points described in such plan, and having suitable equipment and facilities therefor, may make application in writing to the Division of Motor Transport, Office of Defense Transportation, Washington, D. C., for authorization to participate in the plan. A copy of every such application shall be served upon each carrier participating in the plan. Upon receiving such authorization, such carrier shall become subject to this order and shall thereupon be entitled and required to participate in the plan in accordance with all the provisions and conditions of this order and of such plan, in the same manner and degree as the carriers named herein.

8. Communications concerning this order should refer to "Supplementary Order ODT 3, Revised-91", and, unless otherwise directed, should be addressed to the Division of Motor Transport, Office of Defense Transportation, Washington, D. C.

This order shall become effective October 30, 1943, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 26th day of October 1943.

JOSEPH B. EASTMAN,
Director,
Office of Defense Transportation.

[F. R. Doc. 43-17302; Filed, October 26, 1943; 11:07 a. m.]

[Supp. Order ODT 20A-23]

SALINAS, CALIF., AREA

COORDINATED OPERATIONS OF CERTAIN TAXICAB OPERATORS

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by the persons named in Appendix 1 hereof (hereinafter called "operators") pursuant to General Order ODT 20 A (8 F.R. 9231), a copy of which plan is attached hereto as Appendix 2,[2] and it appearing that the operators propose, by the plan, to coordinate their taxicab operations within the area of Salinas, California, so as to assure maximum utilization of their facilities, services and equipment, and to conserve and providently utilize vital equipment, materials and supplies, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered,* That:

1. The plan for joint action above referred to is hereby approved, and the operators are directed to place the plan into operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the operators shall forthwith file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order.

3. The provisions of this order shall not be construed or applied as to permit any operator named herein to alter his legal liability to any passenger. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing operating authority of any operator named herein, such operator forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the operators possessing or obtaining the requisite operating authority.

4. All records of the operators pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

5. The plan for joint action hereby approved and all contractual arrangements made by the operators to effectuate the plan shall not continue in operation beyond the effective period of this order.

6. Any operator duly authorized or permitted to operate taxicabs within the area herein described, and having suitable equipment and facilities therefor, may make application in writing to the Division of Local Transport, Office of Defense Transportation, San Francisco, California, for authorization to participate in the plan. A copy of each such application shall be served upon each of the operators named in this order. Upon receiving authorization to participate in the plan, each such operator shall become subject to this order and shall thereupon be entitled and required to participate in the plan in accordance with all of the provisions and conditions of this order, in the same manner and degree as the operators named herein.

7. Communications concerning this order should refer to "Supplementary Order ODT 20A-23" and, unless otherwise directed, should be addressed to the Division of Local Transport, Office of Defense Transportation, San Francisco, California.

8. This order shall become effective October 30, 1943, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 26th day of October 1943.

JOSEPH B. EASTMAN,
Director,
Office of Defense Transportation.

APPENDIX 1

Packard Cab Co., Salinas, California.
Yellow Cab Co., Salinas, California.
Salinas Cab Co., Salinas, California.
Carl's Cab Co., Salinas, California.
Checker Cab Co., Salinas, California.
Texhoma Cab Co., Salinas, California.

[F. R. Doc. 43-17303; Filed, October 26, 1943; 11:08 a. m.]

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[1] 7 F.R. 5445, 6689, 7694; 8 F.R. 4660.

[2] Filed as part of the original document.

[Supp. Order ODT 20A-24]

HUNTINGTON, W. VA., AREA

COORDINATED OPERATIONS OF CERTAIN TAXICAB OPERATORS

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by the persons named in Appendix 1 hereof (hereinafter called "operators") pursuant to General Order ODT 20 A (8 F.R. 9231), a copy of which plan is attached hereto as Appendix 2,[1] and it appearing that the operators propose, by the plan, to coordinate their taxicab operations within the area of Huntington, West Virginia, so as to assure maximum utilization of their facilities, services and equipment, and to conserve and providently utilize vital equipment, materials and supplies, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war; *It is hereby ordered*, That:

1. The plan for joint action above referred to is hereby approved, and the operators are directed to place the plan into operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the operators shall forthwith file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order.

3. The provisions of this order shall not be construed or applied as to permit any operator named herein to alter his legal liability to any passenger. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing operating authority of any operator named herein, such operator forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the operators possessing or obtaining the requisite operating authority.

4. All records of the operators pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

5. The plan for joint action hereby approved and all contractual arrangements made by the operators to effectuate the plan shall not continue in operation beyond the effective period of this order.

6. Any operators duly authorized or permitted to operate taxicabs within the area herein described, and having suitable equipment and facilities therefor, may make application in writing to the Division of Local Transport, Office of Defense Transportation, Cleveland, Ohio, for authorization to participate in the plan. A copy of each such application shall be served upon each of the operators named in this order. Upon receiving authorization to participate in the plan, each such operator shall become subject to this order and shall thereupon be entitled and required to participate in the plan in accordance with all of the provisions and conditions of this order, in the same manner and degree as the operators named herein.

7. Communications concerning this order should refer to "Supplementary Order ODT 20A-24" and, unless otherwise directed, should be addressed to the Division of Local Transport, Office of Defense Transportation, Cleveland, Ohio.

8. This order shall become effective October 30, 1943, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 26th day of October 1943.

JOSEPH B. EASTMAN,
Director,
Office of Defense Transportation.

APPENDIX 1

Huntington Cab Company, Huntington, West Virginia.

Taxi Service, Inc., Huntington, West Virginia.

[F. R. Doc. 43-17304; Filed, October 26, 1943; 11:08 a. m.]

[Supp. Order ODT 20A-25]

ZANESVILLE, OHIO, AREA

COORDINATED OPERATIONS OF CERTAIN TAXICAB OPERATORS

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by the persons named in Appendix 1 hereof (hereinafter called "operators") pursuant to General Order ODT 20A (8 F.R. 9231), a copy of which plan is attached hereto as Appendix 2,[1] and it appearing that the operators propose, by the plan, to coordinate their taxicab operations within the area of Zanesville, Ohio, so as to assure maximum utilization of their facilities, services and equipment, and to conserve and providently utilize vital equipment, materials and supplies, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered*, That:

1. The plan for joint action above referred to is hereby approved, and the operators are directed to place the plan into operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the operators shall forthwith file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order.

3. The provisions of this order shall not be construed or applied as to permit any operator named herein to alter his legal liability to any passenger. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing operating authority of any operator named herein, such operator forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the operators possessing or obtaining the requisite operating authority.

4. All records of the operators pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

5. The plan for joint action hereby approved and all contractual arrangements made by the operators to effectuate the plan shall not continue in operation beyond the effective period of this order.

6. Any operator duly authorized or permitted to operate taxicabs within the area herein described, and having suitable equipment and facilities therefor, may make application in writing to the Division of Local Transport, Office of Defense Transportation, Cleveland, Ohio, for authorization to participate in the plan. A copy of each such application shall be served upon each of the operators named in this order. Upon receiving authorization to participate in the plan, each such operator shall become subject to this order and shall thereupon be entitled and required to participate in the plan in accordance with all of the provisions and conditions of this order, in the same manner and degree as the operators named herein.

7. Communications concerning this order should refer to "Supplementary Order ODT 20A-25" and, unless otherwise directed, should be addressed to the Division of Local Transport, Office of Defense Transportation, Cleveland, Ohio.

8. This order shall become effective October 30, 1943, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 26th day of October 1943.

JOSEPH B. EASTMAN,
Director,
Office of Defense Transportation.

APPENDIX 1

Green Top Cab Company, 118 N. 5th Street, Zanesville, Ohio.

Red Star City Cab, 5 South 4th Street, Zanesville, Ohio.

Stine's Taxi, Main & Sixth Street, Zanesville, Ohio.

Toppers Courtesy Cabs, 749 Putnam Avenue, Zanesville, Ohio.

[F. R. Doc. 43-17306; Filed, October 26, 1943; 11:03 a. m.]

[1] Filed as part of the original document.

[Supp. Order ODT 20A-26]

DANVILLE, VA., AREA

CERTAIN TAXICAB OPERATORS COORDINATED OPERATIONS

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by the persons named in Appendix 1 hereof (hereinafter called "operators") pursuant to General Order ODT 20 A (8 F.R. 9231), a copy of which plan is attached hereto as Appendix 2,[1] and it appearing that the operators propose, by the plan, to coordinate their taxicab operations within the area of Danville, Virginia, so as to assure maximum utilization of their facilities, services and equipment, and to conserve and providently utilize vital equipment, materials and supplies, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered,* That:

1. The plan for joint action above referred to is hereby approved, and the operators are directed to place the plan into operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. No supervisor or checker employed by the operators and no person or persons representing the operators shall use coercive methods in effectuating compliance with the plan or with any regulations promulgated pursuant to paragraph 9 of the plan, and each such supervisor, checker, or other person or persons shall report to the Office of Defense Transportation all violation of orders issued by the Office of Defense Transportation and or regulations issued by the operators applicable to taxicab operations and all failure to comply with the plan that may be observed by them. No operator participating in the plan shall be denied or refused further participation without the prior approval of the Office of Defense Transportation.

3. Each of the operators shall forthwith file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order.

4. The provisions of this order shall not be construed or applied as to permit any operator named herein to alter his legal liability to any passenger. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing operating authority of any operator named herein, such operator forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the operators possessing or obtaining the requisite operating authority. The plan for coordinated operations directed by this order shall not be construed as including any purchase and sale of taxicabs referred to in paragraph 8 of Appendix 2, nor shall the order be construed as an approval of the restrictions imposed on retiring members by paragraph 9 of Appendix 2.

5. All records of the operators pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

6. The plan for joint action hereby approved and all contractual arrangements made by the operators to effectuate the plan shall not continue in operation beyond the effective period of this order.

7. Any operator duly authorized or permitted to operate taxicabs within the area herein described, and having suitable equipment and facilities therefor, may make application in writing to the Division of Local Transport, Office of Defense Transportation, Philadelphia, Pennsylvania, for authorization to participate in the plan. A copy of each such application shall be served upon each of the operators named in this order. Upon receiving authorization to participate in the plan, each such operator shall become subject to this order and shall thereupon be entitled and required to participate in the plan in accordance with all of the provisions and conditions of this order, in the same manner and degree as the operators named herein.

8. Communications concerning this order should refer to "Supplementary Order ODT 20A-26" and, unless otherwise directed, should be addressed to the Division of Local Transport, Office of Defense Transportation, Philadelphia, Pennsylvania.

9. This order shall become effective October 30, 1943 and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 26th day of October 1943.

JOSEPH B. EASTMAN,
Director,
Office of Defense Transportation.

APPENDIX 1

L. G. Summerlin, Danville, Virginia.
G. W. Slaughter, Danville, Virginia.
L. M. Patterson, Danville, Virginia.
H. N. Patterson, Danville, Virginia.
O. C. Bates, Danville, Virginia.
L. R. Shelhorse, Danville, Virginia.
T. L. Gammon, Danville, Virginia.
J. W. Kizee, Sr., 411 Patton Street, Danville, Virginia.
C. M. Scism, Danville, Virginia.

[F. R. Doc. 43-17307; Filed, October 26, 1943; 11:09 a. m.]

[1] Filed as part of the original document.

[Supp. Order ODT 20A-27]

ALBANY, GA., AREA

COORDINATED OPERATIONS OF CERTAIN TAXICAB OPERATORS

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by the persons named in Appendix 1 hereof (hereinafter called "operators") pursuant to General Order ODT 20A (8 F.R. 9231), a copy of which plan is attached hereto as Appendix 2,[1] and it appearing that the operators propose, by the plan, to coordinate their taxicab operations within the area of Albany, Georgia, so as to assure maximum utilization of their facilities, services and equipment, and to conserve and providently utilize vital equipment, materials and supplies, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered,* That:

1. The plan for joint action above referred to is hereby approved, and the operators are directed to place the plan into operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the operators shall forthwith file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order.

3. The provisions of this order shall not be construed or applied as to permit any operator named herein to alter his legal liability to any passenger. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing operating authority of any operator named herein, such operator forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the operators possessing or obtaining the requisite operating authority. The coordination of operations directed by this order shall not be construed to require or as having required the elimination of any existing taxicab company by its merger with any other taxicab company.

4. All records of the operators pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

5. The plan for joint action hereby approved and all contractual arrangements made by the operators to effectuate the plan shall not continue in operation beyond the effective period of this order.

6. Any operator duly authorized or permitted to operate taxicabs within the area herein described, and having suitable equipment and facilities therefor, may make application in writing to the Division of Local Transport, Office of Defense Transportation, Atlanta, Georgia, for authorization to participate in

the plan. A copy of each such application shall be served upon each of the operators named in this order. Upon receiving authorization to participate in the plan, each such operator shall become subject to this order and shall thereupon be entitled and required to participate in the plan in accordance with all of the provisions and conditions of this order, in the same manner and degree as the operators named herein.

7. Communications concerning this order should refer to "Supplementary Order ODT 20A–27" and, unless otherwise directed, should be addressed to the Division of Local Transport, Office of Defense Transportation, Atlanta, Georgia.

8. This order shall become effective October 30, 1943, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 26th day of October, 1943.

JOSEPH B. EASTMAN,
Director,
Office of Defense Transportation.

APPENDIX 1

Henry Gilyard, Albany, Georgia.
Lee Jones, Albany, Georgia.
Johnnie Riggins, Albany, Georgia.
Willie Wilson, Albany, Georgia.
Eugene Jinks, Albany, Georgia.
Joe Arnold, Albany, Georgia.
Bill Anderson, Albany, Georgia.
Charlie Williams, Albany, Georgia.
Jessie Wilson, Albany, Georgia.
O. C. Lockett, Albany, Georgia.
Stonewall Thomas, Albany, Georgia.
Dassie Hunter, Albany, Georgia.
Roxie Ferrell, Albany, Georgia.
Emanuel King, Albany, Georgia.
Pearlie Leary, Albany, Georgia.

[F. R. Doc. 43–17308; Filed, October 26, 1943; 11:09 a. m.]

[Supp. Order ODT 20A–28]

MARTINSVILLE, VA., AREA

COORDINATED OPERATIONS OF CERTAIN TAXICAB OPERATORS

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by the persons named in Appendix 1 hereof (hereinafter called "operators") pursuant to General Order ODT 20A (8 F.R. 9231), a copy of which plan is attached hereto as Appendix 2,[1] and it appearing that the operators propose, by the plan, to coordinate their taxicab operations within the area of Martinsville, Virginia, so as to assure maximum utilization of their facilities, services and equipment, and to conserve and providently utilize vital equipment, materials and supplies, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered,* That:

1. The plan for joint action above referred to is hereby approved, and the operators are directed to place the plan into operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. No supervisor or checker employed by the association and no person or persons representing the association shall use coercive methods in effectuating compliance with the plan or with any regulations promulgated pursuant to paragraph X (a) of the plan, and any such supervisor, checker or other person or persons representing the association shall report to the Office of Defense Transportation all violations of orders issued by the Office of Defense Transportation applicable to taxicab operations and all violations of regulations issued pursuant to the plan which may be observed by them. No operator participating in the plan shall be denied or refused further participation without the prior approval of the Office of Defense Transportation.

3. Each of the operators shall forthwith file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order.

4. The provisions of this order shall not be construed or applied as to permit any operator named herein to alter his legal liability to any passenger. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing operating authority of any operator named herein, such operator forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the operators possessing or obtaining the requisite operating authority. This order shall not be construed as an approval of the restrictions imposed upon retiring members by paragraph X (g) of Appendix 2.

5. All records of the operators pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

6. The plan for joint action hereby approved and all contractual arrangements made by the operators to effectuate the plan shall not continue in operation beyond the effective period of this order.

7. Any operator duly authorized or permitted to operate taxicabs within the area herein described, and having suitable equipment and facilities therefor, may make application in writing to the Division of Local Transport, Office of Defense Transportation, Philadelphia, Pennsylvania, for authorization to participate in the plan. A copy of each such application shall be served upon each of the operators named in this order. Upon receiving authorization to participate in the plan, each such operator shall become subject to this order and shall thereupon be entitled and required to participate in the plan in accordance with all of the provisions and conditions of this order, in the same manner and degree as the operators named herein.

8. Communications concerning this order should refer to "Supplementary Order ODT 20A–28" and, unless otherwise directed, should be addressed to the Division of Local Transport, Office of Defense Transportation, Philadelphia, Pennsylvania.

9. This order shall become effective October 30, 1943, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 26th day of October 1943.

JOSEPH B. EASTMAN,
Director,
Office of Defense Transportation.

APPENDIX 1

Blackard & Shoemaker, Martinsville, Va.
Benton S. Blackard, Martinsville, Va.
Robert P. Ramsey, Martinsville, Va.
C. D. Shoemaker, Martinsville, Va.
Mrs. Ora F. Mays, Martinsville, Va.
R. W. Dillon, Martinsville, Va.
Mrs. Bertha M. Jackson, Fieldale, Va.
V. G. Ferguson, Bassett, Va.

[F. R. Doc. 43–17309; Filed, October 26, 1943; 11:10 a .m.]

[Supp. Order ODT 20A–29]

MARTINSVILLE, VA., AREA

COORDINATED OPERATIONS OF CERTAIN TAXICAB OPERATORS

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by the persons named in Appendix 1 hereof (hereinafter called "operators") pursuant to General Order ODT 20A (8 F.R. 9231), a copy of which plan is attached hereto as Appendix 2,[1] and it appearing that the operators propose, by the plan, to coordinate their taxicab operations within the area of Martinsville, Virginia, so as to assure maximum utilization of their facilities, services and equipment, and to conserve and providently utilize vital equipment, materials and supplies, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered,* That:

1. The plan for joint action above referred to is hereby approved, and the operators are directed to place the plan into operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the operators shall forthwith file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order.

3. The provisions of this order shall not be construed or applied as to permit any

[1] Filed as part of the original document.

operator named herein to alter his legal liability to any passenger. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing operating authority of any operator named herein, such operator forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the operators possessing or obtaining the requisite operating authority. This order shall not be construed as an approval of the provision in paragraph IX of Appendix 2 imposing restrictions upon the sale of equipment by retiring members.

4. All records of the operators pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

5. The plan for joint action hereby approved and all contractual arrangements made by the operators to effectuate the plan shall not continue in operation beyond the effective period of this order.

6. Any operator duly authorized or permitted to operate taxicabs within the area herein described, and having suitable equipment and facilities therefor, may make application in writing to the Division of Local Transport, Office of Defense Transportation, Philadelphia, Pennsylvania for authorization to participate in the plan. A copy of each such application shall be served upon each of the operators named in this order. Upon receiving authorization to participate in the plan, each such operator shall become subject to this order and shall thereupon be entitled and required to participate in the plan in accordance with all of the provisions and conditions of this order, in the same manner and degree as the operators named herein.

7. Communications concerning this order should refer to "Supplementary Order ODT 20A–29" and, unless otherwise directed, should be addressed to the Division of Local Transport, Office of Defense Transportation, Philadelphia, Pennsylvania.

8. This order shall become effective October 30, 1943, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 26th day of October 1943.

JOSEPH B. EASTMAN,
Director,
Office of Defense Transportation.

APPENDIX 1

M. B. Dillard, Martinsville, Va.
Simon Hairston, Martinsville, Va.
James Dandridge, Martinsville, Va.
Willie Redd, Martinsville, Va.
June Oliver, Bassett, Va.
Ern Foster, Bassett, Va.

[F. R. Doc. 43–17310; Filed, October 26, 1943; 11:10 a. m.]

[Supp. Order ODT 20A–30]

MONTEREY, CALIF.

COORDINATED OPERATIONS OF CERTAIN TAXICAB OPERATORS

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by the persons named in Appendix 1 hereof (hereinafter called "operators" (pursuant to General Order ODT 20 A (8 F.R. 9231), a copy of which plan is attached hereto as Appendix 2,[1] and it appearing that the operators propose, by the plan, to coordinate their taxicab operations within the area of Monterey, California, so as to assure maximum utilization of their facilities, services and equipment, and to conserve and providently utilize vital equipment, materials and supplies, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered,* That:

1. The plan for joint action above referred to is hereby approved, and the operators are directed to place the plan into operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the operators shall forthwith file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order.

3. The provisions of this order shall not be construed or applied as to permit any operator named herein to alter his legal liability to any passenger. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing operating authority of any operator named herein, such operator forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the operators possessing or obtaining the requisite operating authority.

4. All records of the operators pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

5. The plan for joint action hereby approved and all contractual arrangements made by the operators to effectuate the plan shall not continue in operation beyond the effective period of this order.

6. Any operator duly authorized or permitted to operate taxicabs within the area herein described, and having suitable equipment and facilities therefor, may make application in writing to the Director of Local Transport, Office of Defense Transportation, San Francisco, California, for authorization to participate in the plan. A copy of each such application shall be served upon each of the operators named in this order. Upon receiving authorization to participate in the plan, each such operator shall become subject to this order and shall thereupon be entitled and required to participate in the plan in accordance with all of the provisions and conditions of this order, in the same manner and degree as the operators named herein.

7. Communications concerning this order should refer to "Supplementary Order ODT 20A–30" and, unless otherwise directed, should be addressed to the Division of Local Transport, Office of Defense Transportation, San Francisco, California.

8. This order shall become effective October 30, 1943, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 26th day of October 1943.

JOSEPH B. EASTMAN,
Director,
Office of Defense Transportation.

APPENDIX 1

Oliver A. Mundell, Monterey, California.
Ernest W. Roush, Monterey, California.
J. D. Jacobsen, Monterey, California.
Ray Lucido, Monterey, California.
E. Adams, Monterey, California.
C. E. Spicer, Monterey, California.
Harley W. Jenkins, Monterey, California.
C. R. Brownlie, Monterey, California.
Earl Green, Monterey, California.
Vincent Marchese and A. R. Kelly, Monterey, California.

[F. R. Doc. 43–17311; Filed, October 26, 1943; 11:10 a. m.]

[Suppl. Order ODT 20A–31]

SYLACAUGA, ALA., AREA

COORDINATED OPERATIONS OF CERTAIN TAXICAB OPERATORS

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by the persons named in Appendix 1 hereof (hereinafter called "operators") pursuant to General Order ODT 20 A (8 F.R. 9231), a copy of which plan is attached hereto as Appendix 2,[1] and it appearing that the operators propose, by the plan, to coordinate their taxicab operations within the area of Sylacauga, Alabama, so as to assure maximum utilization of their facilities, services and equipment, and to conserve and providently utilize vital equipment materials and supplies, and to provide for the prompt and continuous movement of necessary traffic, the attainment of

[1] Filed as part of the original document.

which purposes is essential to the successful prosecution of the war, *It is hereby ordered,* That:

1. The plan for joint action above referred to is hereby approved, and the operators are directed to place the plan into operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the operators shall forthwith file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order.

3. The provisions of this order shall not be construed or applied as to permit any operator named herein to alter his legal liability to any passenger. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing operating authority of any operator named herein, such operator forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the operators possessing or obtaining the requisite operating authority.

4. All records of the operators pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

5. The plan for joint action hereby approved and all contractual arrangements made by the operators to effectuate the plan shall not continue in operation beyond the effective period of this order.

6. Any operator duly authorized or permitted to operate taxicabs within the area herein described, and having suitable equipment and facilities therefor, may make application in writing to the Division of Local Transport, Office of Defense Transportation, Atlanta, Georgia, for authorization to participate in the plan. A copy of each such application shall be served upon each of the operators named in this order. Upon receiving authorization to participate in the plan, each such operator shall become subject to this order and shall thereupon be entitled and required to participate in the plan in accordance with all of the provisions and conditions of this order, in the same manner and degree as the operators named herein.

7. Communications concerning this order should refer to "Supplementary Order ODT 20A-31" and, unless otherwise directed, should be addressed to the Division of Local Transport, Office of Defense Transportation, Atlanta, Georgia.

8. This order shall become effective October 30, 1943, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 26th day of October 1943.

JOSEPH B. EASTMAN,
Director,
Office of Defense Transportation.

APPENDIX 1

City Cab Company, Sylacauga, Alabama.
Ralph Pike Taxi Company, Sylacauga, Alabama.
Neighbors Taxi Company, Sylacauga, Alabama.
Jones Taxi Company, Sylacauga, Alabama.
922 Taxi Company, Sylacauga, Alabama.

[F. R. Doc. 43-17312; Filed, October 26, 1943; 11:11 a. m.]

[Supp. Order ODT 20A-32]

TALLADEGA, ALA., AREA

COORDINATED OPERATIONS OF CERTAIN TAXICAB OPERATORS

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by the persons named in Appendix 1 hereof (hereinafter called "operators") pursuant to General Order ODT 20 A (8 F.R. 9231), a copy of which plan is attached hereto as Appendix 2,[1] and it appearing that the operators propose, by the plan, to coordinate their taxicab operations within the area of Talladega, Alabama, so as to assure maximum utilization of their facilities, services and equipment, and to conserve and providently utilize vital equipment, materials and supplies, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered,* That:

1. The plan for joint action above referred to is hereby approved, and the operators are directed to place the plan into operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the operators shall forthwith file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order.

3. The provisions of this order shall not be construed or applied as to permit any operator named herein to alter his legal liability to any passenger. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing operating authority of any operator named herein, such operator forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the operators possessing or obtaining the requisite operating authority.

[1] Filed as part of original document.

4. All records of the operators pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

5. The plan for joint action hereby approved and all contractual arrangements made by the operators to effectuate the plan shall not continue in operation beyond the effective period of this order.

6. Any operator duly authorized or permitted to operate taxicabs within the area herein described, and having suitable equipment and facilities therefor, may make application in writing to the Division of Local Transport, Office of Defense Transportation, Atlanta, Georgia, for authorization to participate in the plan. A copy of each such application shall be served upon each of the operators named in this order. Upon receiving authorization to participate in the plan, each such operator shall become subject to this order and shall thereupon be entitled and required to participate in the plan in accordance with all of the provisions and conditions of this order, in the same manner and degree as the operators named herein.

7. Communications concerning this order should refer to "Supplementary Order ODT 20A-32" and, unless otherwise directed, should be addressed to the Division of Local Transport, Office of Defense Transportation, Atlanta, Georgia.

8. This order shall become effective October 30, 1943, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 26th day of October 1943.

JOSEPH B. EASTMAN,
Director,
Office of Defense Transportation.

APPENDIX 1

D. L. Adkinson, Talladega, Ala.
J. H. Capps, Talladega, Ala.
R. W. Shaddix, Talladega, Ala.
James Cox, Talladega, Ala.
Frank Chandler, Talladega, Ala.
J. T. Hammonds, Talladega, Ala.

[F. R. Doc. 43-17313; Filed, October 26, 1943; 11:11 a. m.]

OFFICE OF PRICE ADMINISTRATION.

Regional and District Office Orders.

LIST OF COMMUNITY CEILING PRICE ORDERS

The following orders under General Order 51 were filed with the Division of the Federal Register on October 21, 1943.

REGION I

Boston, Order No. 7, Amendment No. 1 Filed 9:20 a. m.
Boston, Order No. 8, Amendment No. 1 Filed 9:23 a. m.
Boston, Order No. 9, Amendment No. 1 Filed 9:23 a. m.
Boston, Order No. 10, Amendment No. 1 Filed 9:22 a. m.

REGION III

South Bend, Order No. 8, Amendment No. 1 Filed 9:24 a. m.
South Bend, Order No. 9, Amendment No. 1 Filed 9:24 a. m.
South Bend, Order No. 10, Amendment No. 1 Filed 9:24 a. m.
South Bend, Order No. 11, Amendment No. 1 Filed 9:23 a. m.
South Bend, Order No. 12, Amendment No. 1 Filed 9:23 a. m.
South Bend, Order No. 13, Amendment No. 1 Filed 9:23 a. m.
Detroit, Order No. 5, Amendment No. 15 Filed 9:20 a. m.

REGION IV

Atlanta, Order No. 11, Amendment No. 1 Filed 9:25 a. m.
Birmingham, Order No. 11, Filed 9:25 a. m.
South Carolina, Order No. 1F, Amendment No. 4 Filed 9:22 a. m.
Memphis, Order No. 4F, Amendment No. 2 Filed 9:24 a. m.

REGION V

St. Louis, Order No. 5, Amendment No. 1 Filed 9:20 a. m.
St. Louis, Order No. 6, Amendment No. 1 Filed 9:21 a. m.
St. Louis, Order No. 7, Amendment No. 1 Filed 9:21 a. m.
St. Louis, Order No. 8, Amendment No. 1 Filed 9:22 a. m.

REGION VI

Moline, Order No. 14, Filed 9:22 a. m.

REGION VII

Montana, Order No. 34, Filed 9:25 a. m.
Montana, Order No. 35, Filed 10:05 a. m.

REGION VIII

San Diego, Order No. 4, Amendment No. 6 Filed 9:25 a. m.

Copies of these orders may be obtained from the issuing offices.

ERVIN H. POLLACK,
Head, Editorial and Reference Section.

[F. R. Doc. 43-17280; Filed, October 25, 1943; 4:48 p. m.]

LIST OF COMMUNITY CEILING PRICE ORDERS

The following orders under General Order 51 were filed with the Division of the Federal Register on October 18, 1943.

REGION V

Wichita, Order No. G-9, filed 3:07 p. m.

REGION VI

Twin Cities, Order No. 4, Amendment No. 4, filed 2:51 p. m.

The following order under General Order 51 was filed with the Division of the Federal Register on October 19, 1943.

REGION VIII

Seattle, Order No. 16, Amendment No. 2, filed 2:27 p. m.

The following order under General Order 51 was filed with the Division of the Federal Register on October 22, 1943.

REGION IV

Richmond, Order No. 7, filed 9:33 a. m.

Copies of these orders may be obtained from the issuing offices.

ERVIN H. POLLACK,
Head, Editorial and Reference Section.

[F. R. Doc. 43-17281; Filed, October 25, 1943; 4:48 p. m.]

UNITED STATES COAST GUARD.

MISCELLANEOUS ITEMS OF EQUIPMENT APPROVED

By virtue of the authority vested in me by R.S. 4405, 4417a, 4426, 4481, 4488, 4491, as amended, 49 Stat. 1544, 54 Stat. 1028 (46 U.S.C. 375, 391a, 404, 474, 481, 489, 367, 463a) and Executive Order 9083, dated February 28, 1943 (7 F.R. 1609) the following miscellaneous items of equipment for the better security of life at sea are approved:

LIFE PRESERVER

Adult kapok life preserver, Model #2002 (Dwg. #2002, dated 18 August 1943, revised 24 September 1943) (For general use and for use in conjunction with rubber lifesaving suits) Approval No. B-194, manufactured by Chesapeake Appliance Corp., Baltimore, Md.

LIFE RAFT

20-person reversible life raft, Type 1 (Dwgs. Sheets Nos. 1, 2, and 3) manufactured by Jones-Gillis Mfg. Company, McComb, Miss.

LINE-THROWING GUNS

2½" line-throwing gun (Dwg. No. S94-1, dated 9 September 1943, revised 28 September 1943) submitted by Athens Boat Supply Co., Athens, N. Y.

2½" line-throwing gun, model "F" short barrel (Dwg. No. M-108-A, dated 8 October 1943) submitted by Naval Company, Philadelphia, Pa.

PARACHUTE CARTRIDGE FLARE

Red parachute cartridge flare signal (aluminum) manufactured by Chemurgic Corp., Richmond, Calif.

DAYTIME DISTRESS SIGNAL (SMOKE)

Daylight distress signal (orange smoke), model OS-4, manufactured by the Superior Signal Company, South River, N. J.

R. R. WAESCHE,
Commandant.

OCTOBER 25, 1943.

[F. R. Doc. 43-17295; Filed, October 26, 1943; 10:25 a. m.]

WAR FOOD ADMINISTRATION.

DESIGNATION OF PERSONS TO HOLD HEARINGS, TO SIGN AND ISSUE SUBPENAS, AND TO ADMINISTER OATHS OR AFFIRMATIONS

(A) In order to enable the Secretary of Agriculture and the War Food Administrator to discharge their respective duties under any and all Statutes, Executive Orders, or Directives, or any regulations, directives, or orders issued pursuant thereto, the persons in the Office of the Solicitor, whose names are listed below, are hereby designated and authorized, when assigned by the Solicitor, or by his designated representative, to act as examiners, presiding officers, or referees in connection with any hearings held under the said statutes, orders, or directives, during the period from January 15, 1943, to June 30, 1945, inclusive. As such examiners, presiding officers, or referees, they are hereby authorized to conduct hearings under the said acts or orders in accordance with the applicable regulations and to perform all the duties and exercise all the powers including, but not limited to, the powers to administer oaths and affirmations and to issue notices of hearings which, under such regulations, are to be performed or exercised by such examiners, presiding officers, and referees:

Allen, Cleve W.
Anthony, Elijah.
Bagwell, John C.
Ball, Jesse G., Jr.
Barwick, M. Cook.
Baskette, Jesse E., Jr.
Benda, Velda M.
Bigelow, May T.
Blackburn, K. Wilde.
Bolding, William A.
Broderson, Charles E.
Brody, Ralph M.
Brooks, Neil.
Brothers, Charles S.
Brown, Alberta.
Brownell, Robert D.
Bucy, Charles W.
Burchard, Russell D.
Campbell, Howard V.
Camunas, Jose F.
Carl, James M.
Carson, Leonard O.
Carter, Joseph F.
Casteel, Charles G.
Catchings, Benjamin.
Chambers, Edward S.
Chisholm, Dan P.
Christian, Forest A.
Clulow, Ernest E., Jr.
Coffman, Claude T.
Cooper, George E.
Crane, Michael E.
Crigler, Ilene M.
Croak, John E.
Curry, John H.
Curry, John J.
Davis, Louis.
Dechant, Harry P.
DeFrancq, Harry J.
Denham, Raymond O.
Dillman, Raymond L.
Dillon, John J.
Dimon, Phillip W.
Donahue, John E.
Dorough, Robert P
Doyle, James A.
Edwards, Rufe D.
Ehrlich, Sydney.
Farr, Jesse R.
Farrell, William F.
Faust, Fred J.
Firestone, L. J.
Fischer, Russell P.
Folkerth, Justin H.
Foster, William J.
French, Edwin S.
French, Leland S.
Gallagher, Frank A.
Garstang, Marion R.
Gifford, Glen J.
Girard, Clarence H.
Goldman, Abe A.
Green, Thomas F., Jr.
Griffin, John.
Gunnells, Charles W.
Hadley, Albert D.
Hankes, F. H.
Hankins, Morris C.
Heggy, Donald R.
Hilbun, Henry, Jr.
Holland, Herbert H.
Holstein, Benjamin M.
Horn, Gilbert A.
Hotchkiss, Elton C.
Howard, Albert C.
Hunter, W. Carroll.
Hyde, George Osmond.
Ise, Walter J.
Kaseberg, John K.
Kindel, Mrs. Emily A.

King, LaBruce W.
Knudson, J. K.
Koebel, Ralph F.
Kratoska, Floyd R.
Lamberton, Harry C.
Lee, John E.
Leenhouts, Willis R.
Lynch, Raymond J.
Manatt, Sam L.
McCarthy, Richard F.
McConnaughey, Robert K.
McGregor, Thomas H.
McIntire, John A.
McNaught, Archibald.
Melnicoff, Ben Ivan.
Milby, Melville F.
Mischler, Raymond J.
Moffett, Coleman S.
Moore, Willson C.
Moye, William S., Jr.
Murphy, Casper M.
Murphy, Joseph T.
Murray, John J.
Myers, Mary Connor.
Mynatt, Edward F.
Neff, Abner R.
Neylan, Charles F.
Nicholson, Vincent D.
Norberg, Everett C.
Nutting, Charles B.
O'Brien, Phillip M.
O'Donnell, James A.
O'Mahoney, William J.
O'Rourke, C. Dennis.
Parker, Albert B.
Parker, Joseph O.
Paul, Spurgeon E.
Pearl, Francis M., Jr.
Pearlman, Kathryn.
Pierson, Lee P.
Platnik, Harry.
Poindexter, John B.
Poole, Marion E.
Quillian, C. F.
Radigan, R. Terence.
Regan, John M.
Reid, Howard A.
Robinson, Rogers N.
Roche, Richard F.
Rooney, Howard.
Roulhac, James L.
Rouss, Ruth.
Scott, Elmer J.
Shaw, Earle L.
Sherbondy, Donald J.
Shields, Robert H.
Shulman, Edward M.
Slemmons, Warren R.
Smith, Earl J.
Smith, Todd.
Spiegel, Morris D.
Springborg, George R.
Stewart, Cloyd L.
Summers, Lionel M.
Talbott, Thomas M.
Tandy, William N.
Therkelsen, Lotus C. J.
Tremain, Rawleigh L.
Tucker, Robert A.
Veeder, William H.
Vesper, Frank F.
Wales, Harry.
Wallace, Blaine B.
Waters, Helen M.
Webb, Julian.
West, Linton B.
White, Joseph H.
Williams, Sidney D.
Wilson, Clem B.
Wilson, James R.
Wise, William C.
Woodley, F. W.
Zimowski, Joseph B.

Such other persons as may from time to time be designated by the Secretary of Agriculture or the War Food Administrator are also authorized to perform the duties and exercise the powers specified in this paragraph.

(B) In connection with any investigation or hearing relating to the administration or enforcement of the priority, allocation, or rationing authority of the War Food Administrator under Executive Order 9280 (7 F.R. 10179) and Executive Order 9322 (8 F.R. 3807) as amended by Executive Order 9334 (8 F.R. 5423) or any statute or order referred to therein, or any regulation or order issued pursuant thereto, each of the persons listed in paragraph (A) above is authorized to sign and issue subpenas requiring any person to appear and testify or to appear and produce books or records or any other documentary or physical evidence, or both. The authority conferred by this paragraph (B) upon the persons listed in paragraph (A) hereof shall be exercised in conformity with the provisions of subparagraph (4) of paragraph (a) of section 2 of the Act of June 28, 1940 (54 Stat. 676) as amended by the Act of May 31, 1941 (Pub. Law 89, 77th Cong.) and by Title III of the Second War Powers Act, 1942 (Pub. Law 507, 77th Cong., approved March 27, 1942)

(C) In the administration or enforcement of the priority, allocation, or rationing authority of the War Food Administrator under any of the statutes or orders or regulations mentioned in paragraph (B) hereof, any person employed as an inspector or investigator by, or performing inspection or investigative functions for, the War Food Administration is designated and authorized to administer oaths and affirmations for the purpose of procuring or receiving from any person a sworn statement concerning any matter under or appropriate for investigation.

(D) This designation supersedes the designation dated March 13, 1943, as supplemented (8 F.R. 3222, 6741, and 9174)

Issued this 25th day of October 1943.

ASHLEY SELLERS,
Assistant War Food Administrator.

CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 43-17329; Filed, October 26, 1943; 11:16 a. m.]

WAR PRODUCTION BOARD.

TEXTILE, CLOTHING AND LEATHER

[Revocation of Int. 1 to L-85 and Int. 1 to Sched. III to L-85]

APPAREL FOR FEMININE WEAR

Interpretation 1, issued September 18, 1943, to Schedule III of General Limitation Order L-85 is superseded by the deletion on October 26, 1943, of subparagraph (3) of paragraph (a) and the amendment of subparagraph (5) of paragraph (a) and subparagraph (1) of paragraph (e)

Interpretation No. 1, issued September 7, 1942, to General Limitation Order L-85, as amended July 10, 1942, is superseded by the amendment to said order, issued May 25, 1943, (subparagraph 10 of paragraph (b) of § 1166.1 renders said interpretation unnecessary)

Issued this 26th day of October 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-17366; Filed, October 26, 1943; 11:49 a. m.]